

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X
4 UNITED STATES OF AMERICA : 08-CR-76
5 -against- : U.S. Courthouse
6 : Brooklyn, New York
7 CHARLES CARNEGLIA
8 a/k/a CHARLIE CANIG
9 Defendant :
10 : February 18, 2009
11 : 9:00 a.m.
12 - - - - - X

13 BEFORE:

14 HONORABLE JACK B. WEINSTEIN
15 United States District Judge
16 and a Jury

17 APPEARANCES:

18 For the Government: BENTON J. CAMPBELL, ESQUIRE
19 United States Attorney
20 271 Cadman Plaza East
21 Brooklyn, New York 11201
22 BY: ROGER ANSON BURLINGAME
23 EVAN NORRIS
24 MARISA M. SEIFAN
25 Assistant U.S. Attorneys

18 For the Defendant: KELLEY J. SHARKEY
19 26 Court Street
20 Suite 2805
21 Brooklyn, New York 11242
22 and
23 CURTIS JORDAN FARBER
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New York, New York 10013

23 Court Reporter: RONALD E. TOLKIN, RMR
24 Official Court Reporter
25 225 Cadman Plaza East
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1 (Time noted: 9:15 a.m.)

2 THE COURT: Are there any applications?

3 MR. FARBER: None from the defense, Your Honor.

4 MR. BURLINGAME: No, Your Honor.

5 THE COURT: We will start at 9:30. Have the witness
6 in place at 9:30 and then we will start.

7 (Whereupon a recess was taken.)

8 (Matter continued on the next page.)

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1 THE COURT: Please bring the jury in.

2 (Whereupon the jury enters the courtroom at 9:30
3 a.m.)

4 (Whereupon the witness resumes the stand.)

5 K E V I N M c M A H O N,
6 called as a witness, having been previously duly
7 sworn, was examined and testified as follows:

8 THE COURT: Be seated, please. Good morning,
9 everybody.

10 THE JURORS: Good morning.

11 THE COURT: The witness is still under oath.
12 Proceed.

13 MR. BURLINGAME: Thank you, Judge.

14 DIRECT EXAMINATION

15 BY MR. BURLINGAME:

16 Q You testified yesterday that following the murder at JFK
17 Airport of the armored car driver, the defendant locked
18 himself in the room and put plywood up on the walls?

19 A Correct.

20 Q In your experience, could you fairly describe the
21 defendant as paranoid?

22 A Yes.

23 Q Can you give me some examples?

24 A Putting boards up on the window, using -- turning the
25 faucets on loud so nobody could hear. And one time he was

1 putting pepper on the floor outside of the car.

2 Q What was your understanding why he was putting pepper on
3 the floor outside the car?

4 A To keep Hound dogs away.

5 Q Did the defendant keep weapons around his apartment?

6 A He did.

7 Q What kinds?

8 A A little caliber pistol with a homemade silencer.

9 Q What does a homemade silencer look like?

10 A It's a soda bottle with a bunch of sponges and stuff in
11 it.

12 Q Any other weapons he used to keep around?

13 A Switch blade, stun guns, Black Jacks.

14 Q Did the defendant have a fondness for knives?

15 MS. SHARKEY: Objection.

16 THE COURT: Yes. Reframe that.

17 BY MR. BURLINGAME:

18 Q Did you see the defendant with knives frequently?

19 A He carried a switch blade in his waistband all the time.

20 Q Did you know him to possess other knives?

21 A No. That was his knife of choice.

22 Q Was that the only knife that he possessed, that you are
23 aware of?

24 A I guess I am. He had a collection of them. I can't
25 remember them.

1 Q What would he call knives?

2 A Pokers.

3 Q Where was the defendant's apartment located?

4 A Across the street from my condo at Greentree on -- off of
5 Albert Road between 95th and 96th Street in Ozone Park.

6 Q What period of time was this?

7 A I'm not really sure. Like '96. He went there until he
8 got arrested in 2000.

9 Q Did the defendant have any boats, that you're aware of?

10 A He had a kayak.

11 Q Did you ever see him using it?

12 A No.

13 Q Do you know where it came from?

14 A I do not.

15 Q Where did you see it?

16 A It was in one of the garages. I'm not really positive if
17 it was his mother's garage or another garage, but it was
18 hanging up.

19 Q I would like to talk -- you testified yesterday, you said
20 you were a car thief and did jury tampering. And you talked
21 about the armored car robberies and the DiBono murder and the
22 murder of the guard at JFK Airport. I'd like to talk a little
23 more about your criminal history. Is it fair to say you
24 committed more crimes that you can keep track of, in your
25 life?

1 A Yes.

2 Q Have you ever committed assault?

3 A Yes.

4 Q What people have you assaulted?

5 A A couple of bar room fights. I hit -- after they took
6 and threw me out, I would pick up a bottle to even up the
7 sides and hit people with bottles. I assaulted Allen
8 Meshanski with a Black Jack.

9 Q You ever run anyone off the road in your car?

10 A I did.

11 Q Let's go through these. You mentioned Allen Meshanski.
12 Is this the same Allen Meshanski that was a Gambino family
13 associate under the defendant?

14 A That's correct.

15 Q You said you assaulted him with a Black Jack?

16 A That's correct.

17 Q Why did you assault him -- what's a Black Jack?

18 A It's a leather-bound piece of lead that has flexibility.
19 It bends back and forth.

20 Q What do you do with it?

21 A You hit people with it. It don't make a mark or
22 anything.

23 Q Why did you assault Allen Meshanski?

24 A After he started hanging out with Charles, he started
25 dictating to me what I should do. And I told him a couple of

1 times, you know, to stop it. And he was saying well, Charles
2 said to do this or Charles said to do that. I says I don't
3 need you to tell me, you know. He said well, you better do
4 it.

5 And then I told him, I warned him a couple of times.
6 And then I went to the junk yard and I said if you don't shut
7 your mouth, I'm going to hit you with this. And then I
8 cracked him with it, and then I put it down and then we
9 fought.

10 Q Where did you hit him?

11 A I hit him in the face.

12 Q Did he sustain any injuries?

13 A I didn't see any at the time but Charles later said he
14 lost his tooth.

15 Q Do you know if he had to go to the hospital?

16 A No, he didn't.

17 Q You testified you also assaulted people in bar fights?

18 A That's correct.

19 Q Like hitting with bottles?

20 A That's correct.

21 Q How many times did you do that?

22 A Three.

23 Q Did any of them have to go to the hospital?

24 A Not that I'm aware of.

25 Q You testified you ran someone off the road in your car.

1 A Yes.

2 Q Who did you run off the road in your car?

3 A A park dealer that was -- there was a park across the
4 street from my condo, and my kids would go there. And he kept
5 -- he kept doing stuff in front of the kids and I said why
6 don't you go somewhere else. And he said well, I'm around
7 Charles, I can do what I want. And he gave me the finger and
8 then I went and chased him. He jumped in his car so I chased
9 him in my car and I crashed into him. And he ended rolling
10 upside down onto a sidewalk.

11 Q He said he was around Charles?

12 A Yeah. And Chris.

13 Q And who is Chris?

14 A Chris is Charles' nephew.

15 Q Explain again about the car crash?

16 A I -- well, he stuck the finger to me and then we jumped
17 in cars and I was chasing him around the neighborhood. And I
18 hit the back of him and he rolled upside down onto someone's
19 front lawn.

20 Q Did he have to go to the hospital?

21 A No, he did not.

22 Q In addition to the assault, did you ever attempt to
23 assault anybody?

24 A I think by Johnny Alite's -- Claudia's house, there was a
25 guy who lived in the basement and he didn't want to leave.

1 And we chased him and I tried to hit him with a -- it was a
2 spring loaded stick; you shoot it and it shoots up. And it's
3 a metal stick, a baton like. And I swung at him and missed
4 him and he ran away.

5 Q Was this somebody living in Johnny Alite's basement?

6 A It was in Claudia DiPippa's house. And John was in jail
7 at the time, and he said this guy was giving her a hard time.

8 Q Is this the same basement where the defendant was made?

9 A That's correct.

10 Q Did you hit the guy with the collapsable stick?

11 A I missed him.

12 Q You tried?

13 A He jumped over a fence. Yeah.

14 Q Did you ever chase anybody else?

15 A I chased the Greentree president condo -- the president
16 of a condo with a shotgun.

17 Q What is his name?

18 A Robert Porto.

19 Q Why did you chase him?

20 A He had assaulted some guy that ended up dying, and he
21 thought he was tough and everything. And then he was caught
22 and talking about my dog and saying oh, you can never get
23 another dog. I'm the president. I'm glad the mutt died. So
24 I got a little bent out of shape and I chased him. And he ran
25 away, I didn't -- I knew he would see it and run. That's the

1 purpose of it.

2 Q Did you try to shoot him?

3 A No, I didn't try. I just wanted to make him run. And
4 there was a sit down over it, too.

5 Q I'm showing you Government Exhibit 2-HHHH. Who is that?

6 A Robert Porto.

7 Q That's the guy you chased with a shotgun?

8 A Yeah, it is.

9 Q What happened at the sit down?

10 A Skinny Dom wanted to see me and wanted to know if I was
11 losing my mind. I said -- and I explained to him what he said
12 about my dog and how he was acting, like he was untouchable.
13 And that was the end of that. And then Charles yelled at me,
14 what did you do that for.

15 MR. BURLINGAME: Oh, sorry, Judge. The Robert Porto
16 is not in evidence. I'd move to admit Government Exhibit
17 2-HHH.

18 THE COURT: Admitted.

19 (So marked as Government Exhibit 2-HHHH in
20 evidence.)

21 BY MR. BURLINGAME:

22 Q Let's talk about arson. You testified yesterday that you
23 burnt some score cars, which you described as cars that are
24 used in criminal activity. How many cars did you burn?

25 A I don't have a figure.

1 THE COURT: Excuse me for just a moment. What was
2 this number, two?

3 MR. BURLINGAME: 2-HHHH, as in Harry.

4 THE COURT: It's in as Robert Porto.

5 MR. BURLINGAME: Oh, okay. I'm sorry, Judge.

6 THE COURT: Proceed.

7 BY MR. BURLINGAME:

8 Q How many cars have you burned?

9 A I can't put a number on it.

10 Q Ballpark?

11 A Ten.

12 Q Why did you burn them?

13 A If they were used for robberies or scores or something
14 and you don't want fingerprints to be left behind.

15 Q How did you burn them?

16 A Just took a newspaper and threw it in the front or
17 sprinkled it with gasoline, the interior.

18 Q Have you ever robbed anything from the police?

19 A Yes.

20 Q How many times?

21 A Three.

22 Q Tell me about the first time?

23 A The first time I robbed a -- a guy got arrested in a
24 stolen car and the police took him to the precinct and locked
25 him up and put the car on the corner. So while they were

1 locking him up, I jumped in and stole it back.

2 Q Tell me about the second time you stole from the police?

3 A The Nassau County impound lot, I cut a fence and tried to
4 pull a car. We got close to getting caught, we left it. That
5 was the second time.

6 Q What's an impound lot?

7 A Where the cops take your car and impound it and put it in
8 a lot.

9 Q Why was the car impounded, if you know?

10 A It wasn't my car. It was somebody else's. It was a
11 stolen car. I was trying to win the case.

12 Q What do you mean by win the case?

13 A Well, if they don't have the evidence then the case has
14 to be dismissed.

15 Q Tell me about the third time you tried to rob something
16 from the police?

17 A The third time was during an incident that we'd seen
18 Peter Zuccaro with a shotgun, I drove away and dragged two
19 cops. That time I told you, I think, that two cops tried to
20 pull me away and I ran away and I jumped out of my car and
21 reported it stolen. So they took the car to the precinct,
22 they towed it to the precinct and they had it in the garage.

23 And when I jumped out of it, I didn't have a chance
24 to grab all my personal belongings, phone numbers and stuff
25 like that. So when it was in the garage, they had the door

1 open and I ran in the garage and took all the stuff out of my
2 car. Pictures, phone numbers, anything that would be helpful
3 to law enforcement.

4 Q The door of the police garage --

5 A Yes.

6 Q -- was open and you ran in and took back?

7 A All the contents of my car. Anything that would be bad
8 for me.

9 Q What were the contents that you took back?

10 A Members and other associates and made men, the phone
11 numbers, and maybe I left a cell phone. I left a whole bunch
12 of personal -- when I jumped out of the car when the cops were
13 chasing, I wasn't picking up my belongings. I just jumped out
14 and ran.

15 Q Why was it worth it, you basically got back like a phone
16 book?

17 A Phone book, papers, pictures.

18 Q Why would it be worth it to you to break into a police
19 station to retrieve a phone book and pictures?

20 A So nobody else gets tied to things.

21 Q Did you ever retaliate against any law enforcement
22 officers in any other way?

23 A I did.

24 Q How?

25 A The correction officer that had arrested my friend and

1 put a warrant for me to get arrested, I drove by and shot out
2 his personal car with a B.B. gun.

3 Q This is the same correctional officer that you mentioned
4 was -- you described as a vigilante in the neighborhood and
5 led to the conversation between you and the defendant about
6 the Gelb murder?

7 A That's correct.

8 Q And why did you shoot-out the window of this car?

9 A I was mad.

10 Q Was he arresting you?

11 A He didn't arrest me. He pistol whipped my friend and put
12 him under arrest and he put a warrant -- I had a car that was
13 registered bogey. So he couldn't arrest me because the car
14 came back to a different name. So he put a warrant, a
15 personal warrant for my name and I had to go to the precinct
16 and surrender.

17 Q What does it mean when a car is registered bogey?

18 A It was registered under a dead guy's name.

19 Q You did that?

20 A I had it done, yes.

21 Q Have you ever risked injury to anyone while you were
22 resisting arrest?

23 A Yes.

24 Q Let me back up for a second. Did you ever resist arrest?

25 A Every time.

1 Q How many times would you say?

2 A I don't know.

3 Q Ballpark?

4 A Five or six. I did self surrender a couple of times.

5 But if I wasn't -- if I was at a scene and a cop said stop,
6 freeze, I usually ran with my hands up.

7 Q Tell us about when you risked injury to someone while you
8 were resisting arrest?

9 A That was when my car got impounded. Somebody jumped in
10 the car from a -- the cops pulled over another car, and the
11 kid was getting pulled over. I was talking, I had nothing to
12 do with it. And the kid jumped out and jumped in my car and I
13 took off. And as I was taking off, Charles was in the
14 passenger seat, I was in the driver's seat, two cops said
15 stop, you know, was trying to stop. They were trying to grab
16 the gear shift and I just kept driving down the block. And
17 eventually, the speed, they couldn't keep up. They rolled
18 down the block.

19 Q Is it fair to say you dragged the officers alongside your
20 car?

21 A Yes. That's -- that's correct.

22 Q Were the officers injured?

23 A No. They got up and jumped in the car and chased us.

24 Q Do you know if they ended up going to the hospital?

25 A I do not know.

1 Q Let's talk about lying. Were you ever interviewed by the
2 police or federal agents prior to your decision to cooperate?

3 A Dozens of times.

4 Q Were you ever truthful with them?

5 A I don't think I would be. No, I don't think so.

6 Q Were you ever on probation?

7 A I was on -- yeah. For stealing cars I was on probation.

8 Q Did you have a probation officer?

9 A I did.

10 Q Did you have to check in with the probation officer?

11 A Yes, and have a job. Maintain a job.

12 Q Did you try to make the probation officer like you?

13 A Yeah. Showed him work records and stuff like that. Yes.

14 Q Did you lie to the probation officer every time you spoke
15 to him?

16 A Yeah. I said I was working and doing good.

17 Q Were you ever shot or stabbed?

18 A I was.

19 Q Which one?

20 A Shot.

21 Q Who shot you?

22 A John Gotti, Jr..

23 Q Why did he shoot you?

24 A Well, what I recall is that he came to my house asking
25 for an M-16.

1 Q What's an M-16?

2 A Like a semi-automatic weapon. And I had the clip -- it
3 was somebody else's and I had the bullets out somewhere else.
4 And he kept saying where's the bullets, where's the bullets.
5 I go I don't know. So he kept digging and he found them. And
6 he's starting to put the clip in and as he cocked it back it
7 got jammed. And he went (gesturing) and it hit the floor and
8 then went through my leg. And then I fell down. I got shot.

9 Q You thought it was an accident?

10 A Yeah, but he told people different stories. I know that.
11 I thought it was an accident.

12 Q When did this take place?

13 A I had an apartment in Lindenwood. I don't know, 16 or 17
14 years old. I'm not really sure of the age or when it exactly
15 happened.

16 Q So how old were -- what year would it have been when you
17 were 16 or 17 years old?

18 A '84 or '85.

19 Q Did you go to the hospital after you were shot?

20 A I did.

21 Q At the hospital, did the police interview you about the
22 shooting?

23 A A police detective did, yes.

24 Q What did you tell him?

25 A I said I got jumped by a bunch of black guys on Liberty

1 Avenue.

2 Q Why did you tell him that?

3 A Because John, Jr., said to say you were over there and we
4 picked you up. Because it was a bad area at the time.

5 Q Did he tell you to tell them that a bunch of black guys
6 had shot you?

7 A Yes. He said you were getting a potato and egg sandwich
8 and you got jumped.

9 Q Now, if John Gotti, Jr., had just shot you, why didn't
10 you tell the police that he did it?

11 A I didn't want to get shot again.

12 Q So the rule about not cooperating with law enforcement
13 applied even if you were the victim of the crime?

14 A That is correct.

15 Q So you decided to blame some innocent black kid?

16 A I didn't go point them out or anything. I said I don't
17 remember. Three black guys, I don't know. I wasn't
18 cooperative. I actually left. I didn't even get treated, I
19 left.

20 Q Was that standard practice for Gambino family associates?

21 A Yes.

22 Q What neighborhood were you in when John Gotti shot you?

23 A Lindenwood, Howard Beach.

24 Q Did you ever even see black kids in that neighborhood?

25 A No.

1 Q But that didn't stop you from lying to the police at the
2 hospital?

3 A It did not.

4 Q Did you ever participate in a kidnapping at John Gotti
5 Junior's direction?

6 A I did.

7 Q Do you know the name of the person that you kidnapped?

8 A I do not.

9 Q Who was with you?

10 A I think a bunch of people. Frank Radice, Michael
11 Finnerty. Most likely Johnny Alite. It was a long time ago.
12 I don't remember a long time ago.

13 Q I'm showing you Government Exhibit 2-CCCC, as in Charlie.

14 A Michael Finnerty.

15 Q Did he have an affiliation with organized crime?

16 A He was under John, Jr., an associate.

17 Q When did this kidnapping take place?

18 A I don't remember. In the 80's sometime.

19 Q Do you know what part of the 80's?

20 A No.

21 Q Were you armed?

22 A I was.

23 Q What did you have on you?

24 A I don't remember if it was a pistol or a revolver.

25 Q What did you do during the kidnapping with that gun?

1 A I sat in the back with him. He did something wrong. I
2 don't know, actually, what he did.

3 Q Who is the he that did something wrong?

4 A I don't know the guy's name.

5 Q The guy you were kidnapping?

6 A Correct.

7 Q So what happened after he did something wrong?

8 A It had something to do with John, Jr.. I'm not really
9 sure. Something with his wife. I really don't know what the
10 circumstances were. I don't remember. But we told him a
11 bunch of stuff, don't do that again. And we pull over and we
12 threw him out of a car. You know, he was sitting -- it was
13 the back of a station wagon, we pushed him out. And he was
14 here and there was a tire here (indicating), and I fired at
15 the tire.

16 Q Why did you fire at the tire?

17 A To give him a warning, a scare.

18 Q Did it scare him?

19 A I didn't ask him. I left.

20 Q Did he appear scared?

21 A Yeah.

22 Q How far was the tire from his head when you shot it?

23 A His head was by the marshal's feet and the tire was over
24 here (indicating). But I just wanted to blow it out.

25 Q About three feet?

1 A Yeah.

2 Q Do you know what happened to the guy that was kidnapped?

3 A Nothing. No, I don't know what happened to him.

4 Q Did you ever participate in insurance fraud?

5 A Yes.

6 Q How?

7 A Putting cars under dead people's names and reporting them
8 stolen. Things like that.

9 Q You put the car under a dead person's name, reported it
10 stolen and then collected insurance?

11 A That's correct, get the checks.

12 Q Did you ever engage in mortgage fraud?

13 A Yes.

14 Q How so?

15 A Just lied on the application.

16 Q When did that happen?

17 A 1991, I think.

18 Q An application for what?

19 A To buy a condominium in the Greentree Condo in Ozone
20 Park.

21 Q Who did you participate in that mortgage fraud with?

22 A Joe Panzarella, Senior.

23 Q Who was he?

24 A He was the builder of the condominiums and he had a real
25 estate business.

1 Q Is that the father of Joe Panzarella, Jr., the Gambino
2 family associate that you testified was under the defendant?

3 A He is.

4 Q What specifically was the fraud that you -- the lies that
5 you made on your mortgage application?

6 A Everything was a lie. Job, furniture, cars. Everything.
7 Money in the bank.

8 Q What was the purpose of lying on that mortgage
9 application?

10 A To get approved.

11 Q Did you get approved?

12 A Yes.

13 Q You said that you did this with Joe Panzarella, Sr.

14 Did he have any organized crime ties, that you're
15 aware of?

16 A He did.

17 Q What?

18 A Skinny Dom was -- Skinny Dom Pizzonia was a Gambino
19 captain in the Gambino family.

20 Q He was under Skinny Dom?

21 A He was. Because that was -- after I chased Robert Porto,
22 Skinny Dom asked to see me. That was his -- Joe Panzarella's
23 friend, Porto.

24 Q After the mortgage scam, were you able to buy the condo?

25 A Yes.

1 Q That's at the Greentree condominiums?

2 A It is.

3 Q Did you ever cheat on your taxes?

4 A I didn't cheat on them. I just didn't pay them.

5 Q What's a home invasion?

6 A A home invasion is pretty much how it sounds, you invade
7 a home.

8 Q For what purpose?

9 A To get something that's in the home.

10 Q To rob the people that live there?

11 A Correct.

12 Q Did you ever participate in any home invasions?

13 A I did.

14 Q Can you tell the jury about it?

15 A It was a pot dealer, and a bunch of guys went in and tied
16 the guy up. And my job was to open the safe. They thought I
17 was some technical wizard that I could open a safe. But the
18 only thing I did was pick up the safe and throw it in a car
19 and drive away with it.

20 Q Pick up a safe by yourself?

21 A No, a bunch of guys. They were like, Can you open it? I
22 said yeah. Grabbed the end and threw it in the car and
23 driving down the Southern State Parkway like this (gesturing).

24 Q Who did you do that home invasion with?

25 A A bunch of Johnny Alite's friends and crew. Michael

1 Finnerty, I think, was also there.

2 Q Was Alite there?

3 A Yes.

4 Q Do you remember anyone else who was there?

5 A I know he had his crew with him. I'm not sure who's
6 what.

7 Q Who's his crew?

8 A Dave D'Arpino, Michael Malone, Patsy Andriano. And
9 that's all I could remember.

10 Q Did you ever rob any warehouses?

11 A Yes, in JFK.

12 Q How many times?

13 A A couple of times.

14 Q Who with?

15 A Probably George Licastro. I don't know if I went with
16 somebody else also, Ronnie's friends. But I remember George
17 Licastro.

18 Q That's the same George Licastro who got his hand cut when
19 the defendant stabbed the guy at the diner?

20 MS. SHARKEY: Objection to form.

21 A That is correct.

22 THE COURT: I'll allow the question and answer.

23 BY MR. BURLINGAME:

24 Q What did you steal from the airport?

25 A Clothing, champagne, Nintendo games or tapes at the time.

1 Q Did you ever lend money on the street at illegal interest
2 rates?

3 A Yes.

4 Q What is that called?

5 A Shylocking.

6 Q How many times did you do it?

7 A I did it twice. I was really bad at it.

8 Q Why do you say you were bad at it?

9 A Because I gave a guy 30,000. He paid me three or four
10 times and went to jail and got 30 years. So that was the end
11 of that 30,000.

12 Q What about the other time?

13 A 10,000, and the guy closed up the store and that was the
14 end of that.

15 Q Were you ever present at the scene of a murder, other
16 than the two murders you participated in with the defendant?

17 A I wasn't at the scene. I was around the corner.

18 Q Can you tell the jury what happened?

19 A I was with Peter Zuccaro and he was meeting Danny Fama,
20 and they were supposed to have a confrontation with a couple
21 of pot dealers. Peter was in this legitimate truck and he
22 drove around the corner. He says I'm going to go around the
23 corner and back Danny up. He took a shotgun out of his truck
24 and went around the corner. I didn't hear nothing.

25 Q You stayed in the truck?

1 A Yes. Or I got out and look around, like my nosy self.
2 He came back a little while later, got in the car and drove
3 around the corner. And there was two dead guys laying in the
4 street and he said buddy, look at these guys.

5 Q Did you ever hear Danny Fama talk about this murder?

6 A After it happened he went to the diner and they talked
7 about it. And then another time at Bobby Borriello's wake.

8 Q What happened at Bobby Borriello's wake?

9 A He was saying that Peter didn't do nothing and didn't
10 back him up, and was talking all kind of names about him.

11 Q About Peter?

12 A Yeah. He's a dog, he's this, he's that. Because I guess
13 Danny Fama was the one who actually pulled the trigger.

14 Q Did you know that murder was going to take place?

15 A I did not, no. I knew a confrontation was going to
16 happen. But I didn't know that was going to happen.

17 Q Did you see the murder happen?

18 A No.

19 Q Did you take part in the murder in any way?

20 A No.

21 Q What about lying again. Is lying part of being in
22 organized crime?

23 A It is.

24 Q Did you lie everyday that you were a family associate?

25 A Yes.

1 Q Did you lie to others in organized crime?

2 A All the time.

3 Q Did you lie to your wife?

4 A I lied to my wife, yes.

5 Q What sorts of things did you lie to your wife about?

6 A I guess the well, I only had two beers or I'll be home in
7 five minutes. The usual lies. I'll be right back, stuff like
8 that. Nothing drastic.

9 Q Did you did ever cheat on your wife?

10 A No, I did not.

11 Q Did you hang out with other women?

12 A All the time. I hung out with a lot Peter's wife's -- --
13 I hung out at -- oh, another lie my wife was that I wouldn't
14 hang out at topless bars.

15 Q You would tell her that you didn't and, in fact, you did?

16 A She knew I had something out in Long Island or doing
17 something, because Carl would come in from -- Carl Klein would
18 come in from Long Island and talk about the Forbidden Fruit.
19 And she was like, what are you doing over there? And I said I
20 don't even go in.

21 Q The Forbidden Fruit was a topless bar?

22 A It was. That was the one we were extorting.

23 Q Were you ever captured on wiretaps talking about other
24 women?

25 A Yes.

1 Q How did you find out that those conversations were
2 captured on wiretap?

3 A I was remanded in the Nassau County Jail on my extortion
4 charges.

5 Q What does that mean to be remanded?

6 A The judge says go to jail, no bail.

7 Q Okay. So you're in jail?

8 A I'm in jail and I got remanded because they said that I
9 was -- they only had a little piece of the tape at the time.
10 They only were able to transcribe it and it was bad. So the
11 kids in Iraq will take care of it. But then they said go get
12 a private investigator and, you know, interview him. But they
13 only played the kids in Iraq will take care of it. So I got
14 remanded. They threw out the threat and I got remanded.

15 Plus, I ran away from the agents when they came to
16 my house. So I was remanded and I needed the tapes to get out
17 on bail to prove that there was more to the conversation. So
18 my wife went and picked up the tapes. And we didn't have
19 money to pay for a lawsuit or someone to do the transcribing
20 and go through them, so she was the one who went through them.

21 Q So your wife listened to a conversation in which you were
22 talking about other women?

23 A And I was talking to a girl stupidly, yeah, and saying --
24 doing things in topless bars, which was another lie.

25 Q So you lied on the wiretap saying that you had been doing

1 what with other girls?

2 A Like a Bill Clinton, I guess. I don't know how to word
3 it.

4 Q Oral sex?

5 A Correct.

6 Q Did your wife confront you about it?

7 A Yeah. I was remanded and she was screaming on the phone
8 and playing the tape to me on the phone.

9 Q What did you tell her?

10 A I said yeah, I was there, I was trying to get a guy to
11 come down. I was trying to get the guy Marty to come down. I
12 said yeah, come here, we're doing this and we're doing that.
13 And the bottom line, we weren't doing shit but drinking and
14 being stupid.

15 Q So you told her what was on the tape wasn't true?

16 A I told her it was true, I was in the topless bar. There
17 was no -- you know, there was no getting around it. But I
18 said I wasn't having oral sex.

19 Q That was true?

20 A That was true.

21 Q Did she believe you?

22 A I guess so, yes.

23 Q She didn't leave you?

24 A At that time, no.

25 Q Did you ever deal drugs?

1 A Yes.

2 Q What kind?

3 A Pot.

4 Q Did you ever get any other kinds of drugs?

5 A I got coke for other people, yes.

6 Q Where did you get the marijuana that you dealt?

7 A A few people. Billy Caso and this other guy, John
8 Bohack.

9 Q Who was Billy Caso?

10 A Billy Caso was, I believe, Johnny Alite's cousin.

11 Q What did you do with the coke?

12 A I gave it to people --

13 Q Who?

14 A -- that wanted it.

15 You know, if they said -- oh, you know, a guy who's
16 got coke. I gave it to him and, mostly, I gave it to Charles
17 at the tax department.

18 Q What does that mean, the tax department?

19 A Oh, if there was a drug dealer. He'd say Charles wants
20 this, and I ain't paying him for it. Just give it to Charles.

21 Q You mentioned that you were involved in art fraud you
22 tried to bring Hunter Adams into. Did you plead guilty to
23 that crime?

24 A I did.

25 Q In a sentence or two, without mentioning your

1 codefendants, what was the crime that you committed?

2 A I believed that we had stolen paintings and we were
3 trying to sell them. And when we found out that they weren't
4 actual authentic pictures, a cooperating witness gave another
5 of my codefendant a brilliant idea. He was going to put them,
6 the fake paintings, in an art gallery and give them
7 authenticity papers and sell the fakes as real, which is a
8 crime.

9 Q And that's the crime that you plead guilty to?

10 A Yes.

11 Q Was this high end forgeries you were trying to pass off?

12 A Picasso, yeah. Botero.

13 Q Did you ever use drugs?

14 A Yes.

15 Q What drugs?

16 A I did coke.

17 Q When did you first use cocaine?

18 A Late 80's.

19 Q When did you last use cocaine?

20 A '99, because I went to work with the steamfitters and I
21 had to get drug tested.

22 Q How frequently during that period did you use cocaine?

23 A Weekend, casual. I don't have a time or place or number.
24 Every other weekend. And then at the junk yard, it became
25 every Saturday.

1 Q Who did you do cocaine with at the junk yard?

2 A Charles.

3 Q Every Saturday?

4 A Pretty much, yes.

5 Q Why Saturdays?

6 A Saturdays was everybody got paid and we stayed at the
7 junk yard late.

8 Q Did you ever use any other drugs?

9 A No.

10 Q You testified that you bought a condominium at the
11 Greentree Condominiums by obtaining a fraudulent mortgage.
12 Who did you buy that condominium from?

13 A Joe Panzarella, Sr.

14 Q And again, that's the father of Gambino family associate
15 Joe Panzarella, Jr.?

16 A Yes.

17 Q Who was he under, again?

18 A Skinny Dom Pizzonia.

19 Q Jo Panzarella, Sr., was under Skinny Dom?

20 A That's correct.

21 Q And who was Joe Panzarella, Jr., under?

22 A Charles.

23 Q Do you know about any other Gambino family associates or
24 members who owned properties or lived at the Greentree condos
25 during the time you were there?

1 A I did.

2 Q Who?

3 A Allen Meshanski, Steven Kaplan. Carl Amato's brother,
4 Bobby Amato. Mike McLaughlin. John Junior owned the condo
5 that I was in before I bought it.

6 Q You mentioned Allen Meshanski. Who did he live with?

7 A His wife and kid.

8 Q What's his wife's name?

9 A Jody Ryan.

10 Q Do you still own that condo in the Greentree
11 Condominiums?

12 A I sold it.

13 Q When did you sell it?

14 A Late November 1999.

15 Q Who was president of the condo board at that time?

16 A Robert Porto.

17 Q Who else was on the board?

18 A Joe Panzarella pretty much controlled him.

19 Q Joe Panzarella, Sr.?

20 A Was pretty much controlling Porto and everything he did.
21 So he would have the title, but he didn't do anything without
22 the okay from Joe Panzarella, Sr.

23 Q Do you know of any relationship between Porto and the
24 defendant?

25 A I know he knew him. I don't know what kind of

1 relationship they had. I didn't know that they had any.

2 Q Do you know who handle the board's finances?

3 A Joe Panzarella, Sr.

4 Q Do you know if they had anyone to help them with taxes?

5 A I don't know.

6 Q Do you know who Glen Bitet is?

7 A He's a tax guy. I did my taxes with him also.

8 Q Do you know where his office is?

9 A It's on Cross Bay Boulevard somewhere.

10 Q You testified you sold your condominium in November of
11 1999.

12 A That's correct.

13 Q Were there any disputes when you sold it?

14 A With me?

15 Q Was there any sort of dispute that took place during the
16 sale?

17 A The sale of my condo, yes.

18 Q What happened?

19 A I was playing with the scanner and it -- I heard Robert
20 Porto and Joe Panzarella, Sr., talking about how they were
21 going to screw me on the sale of the condo. I was going for
22 closing in a couple weeks. And they were saying yeah, we're
23 going to hit him for water bill, we're going to hit him for
24 maintenance, we're going to hit him for real estate fees,
25 which all things he told me to my face he wasn't going to hit

1 me with. And I called his son over but the conversation was
2 over, but he heard them still talking.

3 Q How were you able to listen to that conversation?

4 A I used a bunch of frequencies. At the time cordless
5 phones were called analog phones. They were on the 46
6 megahertz, and it was the same as the baby monitor. But
7 that's how it started, I would use the baby monitor because I
8 had a daughter. And you were able to get a lot further. And
9 then I started to get the cordless phones and cellular phones
10 so I was able to program it.

11 Q What was it you were punching numbers into?

12 A The scanner.

13 Q And that was the same scanner that you would use to
14 monitor police frequencies?

15 A That's correct.

16 Q So you could this monitor to scan cell phone
17 conversations at that time?

18 A Cellular and cordless phones, yes.

19 Q And you overheard a conversation between Porto and Joe
20 Panzarella, Jr., saying they were going to screw you at
21 closing?

22 MS. SHARKEY: Objection.

23 A Joe Panzarella, Sr..

24 THE COURT: Overruled.

25 BY MR. BURLINGAME:

1 Q Joe Panzarella, Sr. Did they say how you were going to
2 be --

3 A They were going to raise the water bill. Which, anybody
4 who has a condo knows that the water bill is usually covered
5 in the maintenance.

6 MS. SHARKEY: Objection.

7 THE COURT: Overruled.

8 BY MR. BURLINGAME:

9 Q Sorry. Can you repeat your answer?

10 A They were -- you know, when usually you have a
11 condominium you pay common fair charges, and that's electric,
12 insurance and water and maintenance of the grounds. So he
13 said he was going to hit me with an astronomical figure for
14 the water bill and back maintenance. And his real estate fee,
15 which he didn't tell the condo, I found some person that lived
16 next door that they brought over and they bought it. They
17 didn't have nothing to do with him.

18 Q All right. So you found out about this plan to rip you
19 off while you were listening to the conversation on the
20 scanner?

21 A That's correct.

22 Q Then you testified that you went and got Joe Panzarella,
23 Jr., and he was able to listen to part of the conversation?

24 A It was already over but he heard two voices and knew I
25 wasn't bullshitting that I was able to hear what they said.

1 Q So he wasn't able to hear the part of the conversation
2 concerning your closing?

3 A No.

4 Q But he was able to hear that his father and Porto were on
5 the phone?

6 A That is correct.

7 Q You testified a moment ago that someone said they weren't
8 going to hit you with fees right to your face.

9 A I confronted Joe Panzarella and he said oh, no, no, we
10 were kidding or something like that. I says, I heard you.

11 Q Which Panzarella?

12 A The senior.

13 Q So what did you do after you heard them talking about the
14 plan to rip you off at your closing?

15 A I walked across the street to Charles' apartment and told
16 him what I had heard and everything. And he said oh, don't
17 worry about it. I'll handle it, and I'll go to the closing.

18 Q Did he go to the closing with you?

19 A I babysat him for a couple of days. And then the day
20 after closing he was ossified.

21 Q Can you explain what babysat and ossified means?

22 A Well, I knew they said the closing was on Friday. So
23 Wednesday I made sure he was okay. Or Tuesday, you know, he
24 was good. Wednesday he was good. Thursday he wasn't doing
25 nothing. And then the day after closing I called him and got

1 some marbled -- garble on the phone and it was over. I said,
2 you know the closing's in an hour.

3 Q He didn't go to the closing?

4 A No.

5 Q Did you get hit with the charges at the closing?

6 A I did.

7 Q And were those charges justified?

8 MS. SHARKEY: Objection.

9 THE COURT: In his opinion.

10 BY MR. BURLINGAME:

11 Q In your opinion?

12 A No, they weren't justified. It was fake water bills,
13 real estate charges and back maintenance.

14 Q Did you pay them?

15 A I had no choice. I had to pay them.

16 Q Why?

17 A Because I had -- you know, I had somebody to buy it. And
18 if I postponed the closing, I would have to pay the real
19 estate lawyer over and maybe lose the sale and then get stuck
20 with it. So for the \$6,000, it was easier to just move and
21 get away from it.

22 Q You mentioned Forbidden Fruit earlier, the topless bar.
23 You said you were involved in the extortion of that
24 establishment?

25 A I was.

1 Q Did you plead guilty to it?

2 A I did.

3 Q Did you do jail time for it?

4 A I did.

5 Q When did you go to jail for it?

6 A I self surrendered to a prison on -- Fort Dix, New
7 Jersey, July -- somewhere in the 20's. The 21st or 24th of
8 2002.

9 Q When were you released?

10 A I was released to a halfway house in April of 2004.

11 Q What is a halfway house?

12 A Halfway between prison and your house. It's not a
13 prison, but it's ran like -- you know, you have a counts and
14 everything. And you are able to go work in the community and
15 get a job, and then you go to sleep there at night and you go
16 to work in the morning. And then if you do good, you get to
17 go home and they will call your house just to make sure you're
18 home. You can sleep in your own bed.

19 Q You said they do counts and everything. What's a count?

20 A In prisons you have to be counted, so you have to stand
21 up on your bed at 4:00 p.m. Counts is a big one.

22 Q They would count you at the halfway house?

23 A Yes. If they ran it like a prison, you'd have to stand
24 up by your bed and they count you.

25 Q How did you get involved with the extortion of the

1 topless bar?

2 A We stumbled across it.

3 Q How did you -- first, who's we?

4 A Ronnie and me.

5 Q Who is Ronnie?

6 A DeConza.

7 Q The same Ronnie DeConza you did the jury tampering with?

8 A Yes.

9 Q The same guy told you about the armored car robbery at
10 JFK?

11 A That's correct.

12 Q How did you first get involved in the extortion?

13 A He called me out to Ronkonkoma. And he said, who's this
14 guy Skippy? Does John know what he's doing, because at the
15 time I don't think that he was able to visit or something.
16 Later on he was on the visiting list but he didn't go up at
17 first. Or he wasn't talking. I forgot what the actual thing
18 was.

19 To make a long story short, this guy Skippy was
20 extorting the Forbidden Fruit, and he was supposedly a Gambino
21 associate of John Carneglia, but nobody'd seen him for ten
22 years. And a Lucchese -- a Lucchese soldier tried to also
23 extort the Forbidden Fruit. So it was a beef and we had a sit
24 down to see who would get to keep the extortion proceeds.

25 Q How did you get involved in that?

1 A He told me to go tell John see what he wanted to do with
2 Skippy because Skippy got caught.

3 Q Who's the he who told you to go see --

4 A Oh. Ronnie told me to see what John wanted to do.

5 Q And John being?

6 A Carneglia.

7 Q Okay. So what did you do?

8 A On the next visit I told him what had happened and, you
9 know, what Ronnie said, that this guy Skippy got caught. You
10 know, Skippy got caught, he was there caught doing the money.
11 And then they said, like, you know, who are you? And they
12 kept saying to have the people contact the Luccheses, and
13 nobody did. So they threw him out. And I explained this all
14 to John.

15 Q John Carneglia?

16 A Yes. And that there was a Lucchese guy that wasn't
17 leaving. So he said well, you told him I know the guy, it's
18 okay. So I spoke to John and he said that he knew Skippy and
19 that -- to see what you can do to keep the place. So he told
20 me -- I says there was a Lucchese guy there and didn't want to
21 leave. He felt he was entitled to stay there.

22 So he says, you know, do you still play racquetball?

23 I said yeah. He says well, if you see Louie, just tell him
24 what happened. Louie Diadone being the acting boss of the
25 Lucchese family. And I went to the Paerdegat Racquetball

1 Club, and he was playing racquetball. And I said I just came
2 back from seeing John, he said he knows Skippy, and your guy
3 don't want to get out of there. So he said I'll take care of
4 it.

5 Q Let's back up for a second. What's the date when this is
6 taking place, approximately?

7 A '97, '96. I'm not really positive.

8 Q When did you go to jail for it?

9 A Well, I got arrested in 2000, or attempted to be
10 arrested. I ran away. 2000.

11 Q The extortion was going on for as long as three years
12 before that?

13 A My restitution came out to 120,000. So they -- I think
14 they estimated it over two or three years. Yeah.

15 Q Okay. So you had this meeting with John Carneglia at
16 some point in the later half of the 90's. And he had been in
17 jail for eight years at that point?

18 A That's correct.

19 Q You went to speak to the acting boss of the Lucchese
20 family on his behalf?

21 A Yeah. I tried to bring up in a casual conversation. I'm
22 in no way able to talk to a boss of a family, but I played
23 racquetball with him.

24 Q You told the Lucchese boss what John Carneglia had told
25 you?

1 A Correct.

2 Q And the Lucchese boss listened to what you had to say?

3 A Yes. The FCC made the guy come right down.

4 Q What happened?

5 A The Lucchese guys pulled out and we were able to keep the
6 Forbidden Fruit.

7 Q So John Carneglia still had that kind of power even
8 though he was in jail for eight years?

9 A I don't know if you'd call it power, but he was friendly
10 with him. And it was a legitimate beef, I guess you could
11 call it.

12 Q So Skippy got to take over the Forbidden Fruit and the
13 Lucchese guy was out?

14 A That's correct.

15 Q Did you get a portion of the extortion money that Skippy
16 was taking from Forbidden Fruit?

17 A I did.

18 Q How much?

19 A I would get 250 a week.

20 Q Who else was getting money from the extortion?

21 A Carl Klein.

22 Q Who was Carl Klein?

23 A Carl Klein was hanging out with Skippy, and then I
24 brought him -- I introduced him to Charles. So Carl Klein, I
25 guess, become a Gambino associate under Charles Carneglia.

1 Q Was the defendant getting any money from the Forbidden
2 Fruit extortion?

3 A Not a dime. Neither was John.

4 Q John Carneglia?

5 A Yeah, he didn't want nothing. He didn't want no part of
6 it.

7 Q Did the extortion expand to another establishment?

8 A Yeah.

9 Q Where?

10 A There was a place down the block, that was down the block
11 from Forbidden Fruit. It was Cherry's -- Cherry's Video I
12 think it was called.

13 Q What sort of place was it?

14 A It was a video store, but it also had peep booths in it
15 where girls danced in a booth.

16 Q How did the extortion expand to Cherry's Video?

17 A Carl Klein decided that being that we had the Forbidden
18 Fruit, that he could go walk down the block. And that's
19 exactly his opening conversation was, I'm extorting the
20 Forbidden Fruit so you've got to pay me also.

21 Q He said that to the --

22 A The owner of Cherry Video.

23 Q Did he say who he was with?

24 A He said he was with Charles from the G's or something, on
25 tape. I forgot exactly how he called it.

1 Q Did Carl start getting money from Cherry's Video?

2 A He did.

3 Q Was the defendant getting a cut of that money?

4 A He was.

5 Q You were prosecuted for your role in this extortion,
6 correct?

7 A I was.

8 Q In that prosecution, did you discovery that your
9 telephone was tapped?

10 A My wife, yes, played the tapes back.

11 Q Those are the wiretaps you're talking about that your
12 wife listened to?

13 A Correct.

14 Q When were you arrested for this extortion?

15 A I was arrested June 20th or 21st remanded because of the
16 tape. And then when my wife found the tape, we played it to
17 the judge and he released me on bail in November of 2000.
18 Judge Mishler.

19 Q Who are your codefendants in that case?

20 A Sal Scala, Ronnie DeConza, me, Carl Klein, Charles and
21 Skippy.

22 Q Do you remember Skippy's last name?

23 A And some guy -- another guy I never met was also
24 indicted. Some politician.

25 Q Do you remember Skippy's last name?

1 A I think his name was John. I'm not really positive with
2 his name.

3 Q His real first name was John?

4 A I've always called him Skippy. I didn't know of any
5 other name.

6 Q When you say Charles are you referring to the defendant?

7 A That's correct. And somehow a politician got arrested
8 with us, too.

9 Q Now, you said you were not released on bail after your
10 arrest. You were remanded until November?

11 A Yes.

12 Q Was the defendant released on bail?

13 A He was.

14 Q When did you next see him after your arrest?

15 A I seen him in the Nassau County Jail, with that
16 conversation.

17 Q Is that the same conversation you testified to earlier,
18 in which the defendant and the lawyer, Ron Rubenstein, visited
19 you, and the defendant threatened that if you were cooperating
20 he would tell the government about your role in the armored
21 car -- the killing of the armored car guard?

22 A He said he would blame me, yeah. And they would believe
23 him because he's a good fellow.

24 Q During this period, did you know that you were being
25 accused of being a rat?

1 A I knew that I was being accused of being a rat in
2 probably the first couple of days of June or July.

3 Q And who was accusing you of being a rat?

4 A Everybody.

5 Q Anybody --

6 A Charles. Even John Carneglia was caught on tape. I
7 ended up getting tapes later on, and he's saying --

8 MS. SHARKEY: Objection.

9 THE COURT: You heard the tapes?

10 THE WITNESS: Yeah. They were in my possession.
11 Yeah.

12 THE COURT: Find out how they got there and why, and
13 when.

14 BY MR. BURLINGAME:

15 Q You heard John Carneglia say something on a tape, what
16 kind of tape was it?

17 A It was a prison tape, and he was on the phone with Ronnie
18 DeConza.

19 Q How did it come into your possession?

20 A As part of discovery.

21 Q You listened to the tape?

22 A Yes, I did.

23 Q What did you hear John Carneglia say?

24 MS. SHARKEY: Objection.

25 THE COURT: Have him explain what discovery means.

1 BY MR. BURLINGAME:

2 Q What does discovery mean?

3 A Discovery's where the FBI and the prosecutors have to
4 hand over everything that's helpful or hurts the defendant.
5 They have to give it to you so you can fight a case.

6 Q So when the government gives the defendant everything,
7 all the materials that have to do with a case?

8 A That's correct.

9 Q All the evidence?

10 A Everything in their possession, yes.

11 Q And that happens after the arrest?

12 A That happens after the arrest, yes. Well, if you're
13 going to trial then you get it. Some people plead guilty
14 before they even get it.

15 THE COURT: I think one of the jurors would like a
16 break. We'll take ten minutes.

17 (Whereupon the jury leaves the courtroom at 10:25
18 a.m.)

19 THE COURT: Remove the witness, please.

20 (Whereupon the witness leaves the courtroom.)

21 How much longer do you expect this witness to remain
22 on the stand?

23 MR. BURLINGAME: About another hour.

24 THE COURT: Do we have to go through all of the
25 history of the criminality of these people?

1 MR. BURLINGAME: Of which people?

2 THE COURT: Like this witness. Why can't we move
3 this case a little quicker?

4 MR. BURLINGAME: We just want to bring out all his
5 Giglio material and inoculate him as the defense will be
6 crossing all of our witnesses about it--

7 THE COURT: I know that. They've got to do it
8 anyway. I expect from the tactics your cross-examination
9 consists largely repeating the direct. Try to keep it down,
10 please, so we can move the case.

11 MR. BURLINGAME: Thank you, .

12 Judge, one thing. We're going to be playing a short
13 video of -- it's the defendant's home video. It's been
14 created, a four-minute compilation, and it consists of a
15 series of very short snips. Some are as short as two or three
16 seconds and some as short as eight seconds. And it's a little
17 confusing to -- in some of the shots there's ten people that
18 he can identify.

19 So what I would suggest is that we can play the
20 tape. There's audio to it, so we can play the tape once
21 through so the jury can hear the audio and just see what it
22 looks like. And then we play it again and I pause frequently
23 as he identifies who's who.

24 THE COURT: That's fine.

25 MR. BURLINGAME: Thank you.

1 (Whereupon a recess was taken at 10:25 a.m.)

2 (Matter continued on the next page.)

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1 (Whereupon, the witness reenters the courtroom at
2 10:44 a.m.)

3 THE COURT: Bring in the jury.

4 (Whereupon, the Jury enters the courtroom at
5 10:45 a.m.)

6 THE COURT: Be seated, please.

7 MR. BURLINGAME: May I proceed?

8 THE COURT: You may proceed.

9 MR. BURLINGAME: Thank you.

10 CONTINUED DIRECT EXAMINATION

11 BY MR. BURLINGAME:

12 Q Now, before the break you testified that the defendant
13 and his brother, among others, were accusing you of being a
14 rat following your arrest on June 20, 2000, for extortion of
15 the two adult entertainment places.

16 Why were -- what was your understanding as to why
17 you were being accused of being a rat?

18 A Because the Central Islip courthouse was far out in
19 Central Islip and they started housing federal inmates in the
20 county jail. And I was one of probably the first ten to stay
21 housed there, and they don't usually do that. And on the
22 tapes John is going, "How come they don't have no beds in MDC?
23 What is going on with him?" And so that was on the tape.

24 Q That's right. I believe that you testified to this
25 yesterday.

1 And so it was unusual that you would be housed in
2 the county jail and that aroused suspicion that you might be
3 a cooperating witness?

4 A That is correct.

5 Q And you testified that you were eventually released on
6 bail in that case?

7 A Yes.

8 Q When did that take place?

9 A I think right before Thanksgiving of 2000. It was in the
10 20's, November 20th or 23rd or 20 something to that effect.

11 Q After you got out on a bail did you see the defendant?

12 A I seen him, yes.

13 Q Where did you see him?

14 A I seen him in the Central Islip courthouse parking lot.

15 Q And why did you see him in the Central Islip courthouse
16 parking lot?

17 A We had a motion hearing to suppress some of the tapes, to
18 throw them out, saying they were illegal. And you filed a
19 motion to the Judge, and that is what we were doing there that
20 day.

21 Q What happened in the parking lot?

22 A He -- we had a fight, a verbal fight.

23 Q Over what?

24 A When I first got arrested my wife had asked me to go
25 halves on these -- on these tapes.

1 Q What does that mean to go halves?

2 A Well, there was probably three boxes full of tapes, and
3 we want to get them quick so we could do the bail -- to get me
4 out on bail. And He didn't want no part of it. And he is
5 like -- he is like, "Screw Kevin. He is a rat and whatever."
6 Now, all of a sudden, when we had the tapes, then he wanted
7 the tapes because the tapes cost, like, 1500 to 2,000. So
8 that was the fight. "You'd better give me the tapes." And
9 also he wanted the box of guns.

10 Q This is the same box of guns that we discussed
11 previously?

12 A That is correct.

13 Q The one -- the box where you -- the defendant placed the
14 gun that he used to murder DiBono?

15 A Yes.

16 Q Okay. And so what happened in the parking lot?

17 A It was just a verbal fight. I mean, he just came out of
18 the metal detector; so I knew he didn't have a knife on him;
19 so I was kind of brave.

20 Q And was the fight resolved in the parking lot?

21 A He said to -- that "I'd better go to his house and talk
22 about it and stop acting stupid."

23 Q Did you?

24 A Yes. I went there as fast as I could.

25 Q Why?

1 A Before he could drink or do any kind of drug.

2 Q What happened when you got to his house?

3 A It was -- I was too late.

4 Q What happened when you got there?

5 A He was all wound up, and he did something, some kind of
6 drug, and he was screaming I killed his mother.

7 Q What did you understand that to mean?

8 A Well, his mother was in the house and she was alive and
9 walking, and so I knew -- but because we got pinched he was
10 blaming me, saying that it was my fault we got arrested.

11 Q So what happened?

12 A He went under his pillow and pulled out a gun and pointed
13 it at me. I don't know if he clicked it back or it jammed,
14 I'm not exactly sure, but I didn't stick around. And I ran.
15 And then he ran to the window and said, "Don't come back," and
16 shot through the window at my wife. So I came halfway back
17 up, and when he walked close enough I ran out the door and
18 jumped in the car and left. And then I eventually gave the
19 bunch of guns to Allen. And then I seen him later on after he
20 got convicted, he wanted a letter from me saying that I did
21 everything on my own and he had no idea what I was doing. And
22 he asked Pete Gotti also do that.

23 Q How did he inform you that he wanted that letter?

24 A Him and Allen were driving -- oh, well, Pete grabbed me
25 and said -- you know, he said, "If you could give him the

1 letter and help him -- and help him out, that would be good."
2 And then a couple of people asked me. And then -- you know,
3 I didn't want to. Why should I? I didn't want to do that.
4 And then he passed by and was calling me a rat and you'd
5 better give me that letter. And his lawyer didn't ask for it
6 either because I had -- I had seen him later on.

7 MS. SHARKEY: Objection.

8 THE COURT: Strike it. Strike the last answer.

9 BY MR. BURLINGAME:

10 Q After the incident where the defendant pulled a gun on
11 you and threatened to shoot your wife, were you concerned that
12 he was going to kill you?

13 A A lot of people said he was talking about killing me,
14 yeah.

15 Q Did you talk to anyone about your concerns?

16 A I talked to Ronnie DeConza.

17 Q He was one of your codefendants in the extortion case; is
18 that right?

19 A Yeah. He was the -- he was the first to come around and
20 say Kevin was not a rat.

21 Q What did he tell you?

22 MS. SHARKEY: Objection.

23 THE COURT: "Kevin was not a rat." I don't
24 understand the relevance.

25 MR. BURLINGAME: I can skip it, Judge.

1 THE COURT: Thank you.

2 BY MR. BURLINGAME:

3 Q After the defendant drove by your house and was calling
4 you a rat because you wouldn't write the letter, did you speak
5 to him again?

6 A No. I think he got the -- he went to Fort Dix prison.

7 Q That was the end of your relationship with him?

8 A That was.

9 Q What was the date?

10 A I don't know.

11 Q Ballpark?

12 A It was probably -- I had to get sentenced in March, and
13 then I surrendered in July of 2000. I think he went --

14 Q 2000?

15 A Yes. I mean 2002. So I think he got -- I think he got
16 remanded probably -- I will be guessing. 2001.

17 MS. SHARKEY: Objection to guessing.

18 BY MR. BURLINGAME:

19 Q Your best recollection it was some point in 2001?

20 A Yes. He got remanded and then got sentenced.

21 Q Did you ever lay eyes on him again after that?

22 A I drove by Carosella's --

23 Q When?

24 A -- and seen him standing outside.

25 2006.

1 Q What is Carosella's?

2 A It is a restaurant type with a game room in the back.

3 Q What happened to you in the extortion case? You
4 testified already you went to jail.

5 What sentence did you receive?

6 A 33 months.

7 Q And during the time that you were in jail were you again
8 accused of cooperating with the Government?

9 A I was.

10 Q Who was accusing you of being a rat?

11 A I was on one side of the jail; Charles was on the other.
12 So every time a guy came over to the camp he would come in
13 with, "He is a rat and wants to kill you," and all kinds of
14 stuff, Charles.

15 Q Were you aware of anyone who wasn't in the jail that was
16 calling you a rat during that period?

17 A Johnny Alite was also in Fort Dix with Charles.

18 Q And were you cooperating at that time while you were in
19 jail?

20 A I was not, but I had a visit from Florida FBI and
21 I didn't keep it a secret. I told everybody that the FBI said
22 they were going to arrest me for a Florida -- for a Florida
23 racketeering case.

24 Q Why did you tell everybody?

25 A Because it was a camp, and I drove around. I had access

1 to drive all over the base. And they had seen me going into
2 a building that is called SIS, and they are like the prison
3 FBI. And you don't go in there unless you did something wrong
4 or the Government wants to talk to you. So a lot of people
5 were driving by and seeing it; so I didn't hide it because I
6 didn't do nothing wrong.

7 Q So just to be clear, you were not cooperating during the
8 period you were in jail from July of 2002 until the halfway
9 house in the spring of 2004?

10 A The thought came across my mind, but no. I wasn't
11 cooperating.

12 Q Now, you testified yesterday that you were convicted in
13 a racketeering case which -- in which two counts against you
14 were the robbery of the Papavara Funeral Home and the robbery
15 of the Sears Department Store in New Jersey.

16 A Yes.

17 Q Were you incarcerated after that conviction?

18 A I was.

19 Q Where?

20 A I was in the middle district of Florida. I was in a
21 county jail.

22 Q And when you were in -- which county jail were you in?

23 A I was in two county jails, Hillsboro County Jail and
24 Hernando County Jail.

25 Q You were in those county jails, did you have an

1 opportunity to talk to any Gambino family member or
2 associate --

3 A I did.

4 Q -- at the same jail.

5 A I did.

6 Q Who?

7 A Johnny Alite.

8 Q And where were you when you saw Johnny Alite?

9 A We were in separate pods. You know, we couldn't talk to
10 each other but we went to -- on -- we could go to -- when you
11 go to church they take all of the pods.

12 Q I'm sorry. Which jail were you in when you saw
13 Johnny Alite?

14 A Hernando, Hernando County Jail.

15 Q Okay. And do you know the exact date that you saw him?

16 A I do not.

17 Q And you started to explain. How did it come about that
18 you were able to talk to him?

19 A They had us separated, and when you went to church they
20 put everyone together to go to church, all of the pods. They
21 are little jails that hold 40 in each pod, I guess. 40 men.
22 And we were lined up outside and we were going to church. And
23 federal inmates wore red jumpsuits. The county and state guys
24 wore khakis, like I am wearing now, and that is how they tell
25 the fed from the state. They keep you separated. And someone

1 stole a washcloth or something, and the guard took four red
2 inmates -- four red jumpsuits off the line and put us in a
3 cell -- separate cell, trying to get to the bottom of the
4 washcloth caper.

5 Q And who were -- and was Alite one of the people in the
6 red jumpsuits?

7 A He was.

8 Q And in a couple of sentences, describe to the jury the
9 nature of your conversation with him in the jail.

10 A I heard that he was sitting by my wife's house and
11 telling everybody that I was a rat before he went on the -- on
12 the lam. He went to Brazil. So it was like, you know, "You
13 called me a rat," and this and that. And then he started to
14 explain, you know, saying, "Oh, no. It wasn't me." You know,
15 I was saying -- he said Michael Finnerty said I was a rat and
16 that is where he got it from. I was trying to get to the
17 bottom of that rat thing.

18 And he said he was with Charles. And he said,
19 "I don't know why you didn't cooperate. Nobody helped you or
20 anything."

21 And I said, "Why would I cooperate. You know,
22 you're facing life, not me." And it was -- it was a hostile
23 conversation. It wasn't buddy buddy.

24 Then he talked about with Peter and things that
25 probably are going to come up, up the road with murders, Louis

1 DiBono and armored cars and stuff like that.

2 Q When you said he talked about Peter and things that were
3 going to come up, up the road, what do you mean?

4 A Well, at the time it was known -- well, it wasn't
5 positively known, but it was in the paper that Peter Zuccaro
6 was cooperating. I think he may have cooperated -- testified
7 at the trial already.

8 Q And Alite mentioned to you about -- he said some murders?

9 A Correct.

10 Q Which ones?

11 A The two ones that I pled guilty to.

12 Q He brought them up?

13 A Yes. He said he knew about them. I denied it and said,
14 "I don't know what you're talking about."

15 And he said, "I don't know why you didn't
16 cooperate." And then he was giving -- telling me, "Why didn't
17 you cross-examine this one or cross-examine that one?"

18 And I said, "You are dead at trial. You should
19 cooperate because I sat through your trial, and you're dead."
20 And that was about it.

21 Q Would you describe this as a tense conversation or --

22 A Yes. And also I told him about the messages coming back
23 from -- from -- from Fort Dix, and he said, "Oh, I didn't even
24 bother with Charles. He was out of it. All he talked about
25 was you."

1 Q Okay. I would like to run through the remainder of the
2 head shots with you. If you can identify each person and tell
3 me the highest rank in the Gambino family -- or their
4 affiliation with organized crime and the highest rank they
5 obtained.

6 A Mikey Scars.

7 Q Family?

8 A Gambino captain.

9 Sammy the Bull, underboss.

10 Q Family?

11 A Gambino family.

12 Me. Associate.

13 Q Government Exhibit 2X.

14 A Johnny Boy Ruggiero. He is deceased. He is a made man.

15 Q Government Exhibit 2KK.

16 A Fat Mark, associate.

17 Q Do you know his last name?

18 A No.

19 Q Government Exhibit 2MM.

20 A Paul Castellano, the boss of bosses, the boss of the
21 Gambino family.

22 Q 2VV.

23 A Carlo Gambino. He was the boss before Paul Castellano.

24 Q Government Exhibit 2000.

25 A Frankie Russo.

- 1 Q Position?
- 2 A Associate of Gene Gotti.
- 3 Q The Gambino family?
- 4 A Yes.
- 5 Q Do you know if he owns any restaurants?
- 6 A He does.
- 7 Q What?
- 8 A A catering hall.
- 9 Q What is the name?
- 10 A Russo's on the Bay.
- 11 Q Government Exhibit 2QQQ.
- 12 A My codefendant in the Florida trial, Ronnie Trucchio, a
- 13 captain.
- 14 Q Gambino family?
- 15 A That is correct.
- 16 Q Government Exhibit 2Z.
- 17 A Father.
- 18 Q Do you know his real name?
- 19 A I do not.
- 20 Q Government Exhibit 2LLL.
- 21 A That is not familiar at this time.
- 22 Q Government Exhibit 2ZZZ.
- 23 A Vinnie Gotti, be a made man.
- 24 Q Government Exhibit 2YY.
- 25 A Richie Gotti, a made man.

1 Q Gambino family?

2 A Correct.

3 If I remember that one later I can tell you; right?

4 Q Sure.

5 Government Exhibit 2M.

6 A Frankie Theft.

7 Q Do you know his real name?

8 A No.

9 Q What was Frankie Theft's position?

10 A He was a made man.

11 MR. BURLINGAME: I am showing the witness Government
12 Exhibit 2LLL.

13 THE WITNESS: It looks like Ruggiano. I am not
14 sure. I am not sure.

15 BY MR. BURLINGAME:

16 Q Do you know the position for Ruggiano?

17 A That is -- the one in your hand is Ruggiano. I know he
18 had glasses on, yeah.

19 Q Which Ruggiano is that?

20 A That is the one that I know. I don't know that one.
21 That one is the father, maybe.

22 Q But you don't know that one?

23 A No.

24 Q Okay. Who is this?

25 A That is Anthony Ruggiano.

1 Q What is the highest position that he obtained that you
2 are aware of?

3 A He used to hang out with Tony. I don't know if he was a
4 made man or not. I'm not sure he stayed with Skinny Dom at
5 the club on the Bay Avenue.

6 Q When you knew him he was an associate?

7 A Yes.

8 Q Now, you testified before that you provided the
9 Government with some photos during the course of your
10 cooperation. I am showing you what has been marked as
11 Government's Exhibit 83, Government Exhibit 317B, and
12 Government's Exhibit 82. I will just flip through them for
13 you.

14 Are these photographs that you provided to the
15 Government?

16 A Correct.

17 Q Is it fair to say -- what sort of photograph is this?

18 A This is from a video.

19 Q This is Government's Exhibit 317B.

20 A still picture from a video?

21 A A couple of days right before we got arrested.

22 Q Okay. And are members and associates of the Gambino
23 family shown in these -- in the pictures on these three
24 boards?

25 A Yes.

1 MR. BURLINGAME: I move to admit Government Exhibits
2 82, 83, and 317B.

3 THE COURT: 317B?

4 MR. BURLINGAME: Yes.

5 THE COURT: Admitted.

6 (So marked as Government Exhibits 82, 83, and 317B
7 in evidence.)

8 MR. BURLINGAME: Permission for the witness to step
9 down and explain who is in the photos.

10 THE COURT: Yes.

11 BY MR. BURLINGAME:

12 Q I am looking at Government Exhibit 82.

13 Starting at the top right-hand corner of the board,
14 do you where this picture is from?

15 A I believe Cumberland, Maryland. I think so. I'm not
16 positive.

17 Q And what was this?

18 A Ronnie DeConza gave me the picture.

19 Q Okay. And it's the top left-hand corner of the board.
20 I got it wrong before.

21 And Ronnie DeConza gave you this picture?

22 A Yes.

23 Q And who is shown in the picture?

24 A John Carneglia, Ronnie DeConza, and Charles. This was
25 after the 2000 arrest because he had cancer and he has hair

1 here. He had chemo.

2 Q And Ronnie DeConza, again, the guy you did the jury
3 tampering with and the person who first introduced you --
4 first turned you on to the --

5 A Armored car.

6 Q -- armored car robbery?

7 A Yes. And gave me the Queens Boulevard one also.

8 Q Where was this picture taken, the second picture, the
9 picture on the top row on the right-hand side?

10 A At some kind of a club or something in Ridgewood, I
11 believe.

12 Q Was it was a special occasion?

13 A I was getting married. I guess it's my engagement
14 party -- engagement party. I mean my bachelor party.

15 Q Can you identify who is who in this picture, starting on
16 the left.

17 A Jimmy D.

18 Q What is Jimmy D's last name?

19 A D'Ambrosia, I thought.

20 Danny Amadeo.

21 Q Did Jimmy D'Ambrosia have any affiliation with organized
22 crime?

23 A Joe Massino, he was under him.

24 Q Who was Joe Massino?

25 A He was the boss of the Bonnano family.

1 Q And who is Danny Amadeo?

2 A He is an associate of John, Jr., Gotti.

3 Q Who is this?

4 A That is Patsy DiPippa.

5 Q And what was his nickname? Did you call him "Pat"?

6 A Yes.

7 Q And did he have any organized crime affiliation?

8 A He was Johnny Alite's brother-in-law.

9 Q And what was his position in organized crime?

10 A He was -- he was an associate to Johnny Alite, and that
11 was the basement that Charles got made.

12 Q This picture was taken in the basement?

13 A That is Johnny Alite's girlfriend's brother.

14 Q Okay. And it was Johnny Alite's girlfriend's brother
15 where Charles was made in the basement?

16 A Correct.

17 Q Who is that?

18 A That is Peter Gotti, Jr.

19 Q What, if any, organized crime affiliation did he have?

20 A He was associated with his father, I guess. And his
21 father was the acting boss.

22 Q Who is next to Peter Gotti, Jr.?

23 A Michael Finnerty.

24 Q Who is next to Peter Gotti, Jr.?

25 A Me.

1 Q And next to you is?

2 A Michael Finnerty.

3 Q And who is Michael Finnerty again?

4 A My brother-in-law.

5 Q And he participated in a number of crimes with you?

6 A Yes.

7 Q He is a Gambino family associate?

8 A Correct.

9 Q Who was he under?

10 A He was under John, Jr.

11 Q The bottom picture, where did this take place?

12 A Took place at Peter Zuccaro's wedding.

13 Q Bottom left?

14 A Peter Zuccaro.

15 Q Who took the picture?

16 A I did.

17 Q Who is this?

18 A Charles Carneglia.

19 Q And that is Peter Zuccaro leaning over, signing the book?

20 A It is, yes.

21 Q Do you know where this center photo in the bottom was
22 taken?

23 A Yes. This is in a prison. I forgot whether it was
24 Allenwood or Terre Haute. I think more Allenwood.

25 Q How did this picture come into your possession?

1 A John Carneglia mailed it to me.

2 Q Can you indicate who you know in the picture.

3 A This is John Carneglia, and this is Lenny DiMaria.

4 Q Who is Lenny DiMaria again?

5 A He was the man -- he is a captain, and he was the -- he
6 was also a defendant in the John Gotti RICO case where I fixed
7 jury.

8 Q Where was the photo on the bottom right-hand side taken?

9 A It was at the junkyard.

10 Q When you say the junkyard, what junkyard are you talking
11 about?

12 A 651 Fountain Avenue, East New York.

13 Q The defendant's junkyard?

14 A Yes.

15 Q And who is on the left-hand side?

16 A That's Junior Ruggiero.

17 Q And he is the one that you testified yesterday the
18 defendant stun gunned and put Ben Gay down his pants and ran
19 over with a car?

20 A I don't know if I said he ran over him with a car.

21 Q Okay.

22 A No. He got away. He just got the stun gun and the
23 Ben Gay.

24 Q Okay. And he is the one who told you in 2006 that he had
25 become brothers with the defendant?

1 A That is correct.

2 Q And you understood that to mean that they were both
3 members of the Gambino family at that time?

4 A That is correct.

5 Q Who is next to Junior Ruggiero?

6 A Charles Carneglia, right here.

7 Q Who is next to Charles Carneglia?

8 A Kevin McMahon.

9 Q Who is next to you?

10 A This is Angelo Ruggiero's brother-in-law Vinnie.

11 Q Do you know the last name?

12 A I do, but I don't know it now. I forgot it.

13 Q Who is next to Vinnie?

14 A That is Junior Ruggiero's brother Louis Ruggiero.

15 Q Do you know approximately when this photo was taken?

16 A Right before we got arrested -- or before Junior got
17 arrested because after he got arrested we wouldn't be together
18 no more. So I don't know when Junior went to jail.

19 Q Ballpark?

20 A '98 or '99.

21 Q Okay.

22 A When he went to jail or when the picture was taken?

23 Q When the picture was taken.

24 A Yeah. '98 is a ballpark.

25 Q This is Government Exhibit 83.

1 Where were these pictures taken?

2 A The same place, in the front of the junkyard.

3 Q These are photos you gave to the Government?

4 A Yes.

5 Q Did you take these pictures?

6 A I did.

7 Q And who is shown in the top left-hand photo?

8 A I don't know -- I don't know his name.

9 Q Go left to right.

10 A Oh, left to right?

11 This is one of the Corozzos. They're twins.

12 Q Who are the two twins?

13 A Blaise and Anthony.

14 Q Okay. And do either of those have any organized crime
15 affiliation?

16 A They had are JoJo Corrozo and Nicky Corrozo's brothers.

17 Q And are they a part of the organized crime, either one of
18 them?

19 A Yes. Their brothers were bosses and stuff, yeah.

20 Q Were you aware of either of them participating in any
21 criminal activity?

22 A I was not.

23 Q Who is next to Blaise or Anthony Corrozo?

24 A Charles Carneglia.

25 Q And who is that guy?

1 A That's the guy from "Goodfellas" that ended up in a
2 freezer box. I don't know the name. He's an actor.

3 Q Did you know a nickname for him?

4 A Frenchy. I mean, that's not his nickname. That is the
5 actor he played.

6 Q In the movie "Goodfellas" he played the actor Frenchy?

7 A Yes.

8 Q And he -- did he come by the defendant's junkyard
9 frequently?

10 A A couple of time.

11 Q Do you know his relationship -- the nature of his
12 relationship with the defendant?

13 A Yeah. He had some kind of problem with somebody in jail.
14 I am not exactly positive.

15 Q And is that Blaise or Anthony Corrozo again, one of the
16 Corrozo twins?

17 A It is impossible to tell. They are twins. I don't know
18 what they look like. They both wear glasses.

19 Q It is one or the other of them?

20 A Yes.

21 Q And who is this?

22 A That is Charles.

23 Q And I'm putting stickers on the top right-hand photo.

24 Who is that in between --

25 A This is Kid Don. He was a cop and then he got fired and

1 he worked at the junkyard. I don't know his last name.

2 Q Did he have any organized crime affiliation that you're
3 aware of?

4 A He was under Charles.

5 Q Who is this guy? I'm pointing to the center between the
6 defendant and the guy from "Goodfellas."

7 A A guy, Bobby Vandette, I think. Bobby.

8 Q Did he have any organized crime affiliations?

9 A He was under Charles.

10 Q And do you know -- this is the guy from "Goodfellas"
11 again; is that correct?

12 A Yes.

13 Q And who are these two people?

14 A This is another Don. His name is -- I don't know the
15 last name.

16 Q And who is at the end in the red shirt?

17 A That is Fat Richie's brother.

18 Q Do you know of any organized crime affiliation for these
19 two guys?

20 A I do not.

21 Q And who is here in the bottom photo?

22 A Allen Meshanski and the guy from "Goodfellas."

23 Q Allen Meshanski, you testified, he is a Gambino family
24 associate under the defendant. He is the one who picked up
25 the box of guns from you?

1 A The one who hit me with the box, I guess.

2 Q And he is the one that you knocked his tooth out with the
3 black jack?

4 A Supposedly.

5 Q And this is the still photo from the video?

6 A Yes.

7 Q And was there anything wrong with the video?

8 A I tried slicing it out.

9 Q And did it come distorted?

10 A Yes. The second video, yes. I cut it out. It was along
11 the video, but I attempted to cut it out. They didn't want
12 video no more.

13 Q And when did this -- when would this picture take place?

14 A Maybe -- well, it was a couple of days before -- before
15 we got arrested for the extortion case. And it was at my
16 house. And I think it was Father's Day.

17 Q And who was -- who is present in the photo?

18 A Charles Carneglia and Jenny Carneglia.

19 Q So fair to say this was right before the problems started
20 between you and the defendant?

21 A That is accurate.

22 Q Okay. And you are talking about Government Exhibit 317B.

23 Now, did you also provide -- you testified a couple
24 of instances that you took videotapes of certain things.

25 A I did.

1 Q Did you provide the Government with any of the home
2 videos that you shot?

3 A I did.

4 Q Did you know if the Government made a compilation tape
5 consisting of certain outtakes from those videos?

6 A Compilations?

7 Q A tape made up of excerpts from the videos that you gave
8 the Government.

9 A Oh, yes. The tape is two hours, and we made it three
10 minutes.

11 Q And you watched this tape?

12 A Yes.

13 Q And when did you watch it?

14 A Over the weekend.

15 Q Where were you when you watched it?

16 A In jail.

17 Q I am showing you what has been marked as Government
18 Exhibit 317A.

19 What is that?

20 A That is the tape that I watched of the video.

21 Q How do you know it was the same one that you watched?

22 A It's got my initials.

23 Q You initialed it after you watched it?

24 A I did.

25 MR. BURLINGAME: I move to admit Government's

1 Exhibit 317A.

2 THE COURT: Yes. Admitted.

3 (So marked as Government's Exhibit 317A in
4 evidence.)

5 MR. BURLINGAME: And permission to publish it to the
6 jury. And, Judge, this is the video where, if I could just
7 explain to the jury, it is made up of --

8 MS. SHARKEY: Objection. This is Mr. Burlingame
9 testifying.

10 THE COURT: You may explain the video.

11 MR. BURLINGAME: The video is made up of a series of
12 very short clips. We plan to play the video once through.
13 It's about four minutes. There is five seconds of blank space
14 between each of the clips. We will play it once through, and
15 then we are going to play it a second time and I am going to
16 ask Ms. Moore to pause the tape during the clips so that the
17 witness can identify who is who in the different clips. So
18 you can both hear -- if there is audio on the videotapes, you
19 can both hear the audio during the first playing, and the
20 second one will be able to tell you who is who.

21 THE COURT: All right.

22 BY MR. BURLINGAME:

23 Q Before we start playing, you watched this DVD; is that
24 correct?

25 A Yes.

1 Q And where are these videos taken that are on the DVD?

2 A One is taken in Cape May, New Jersey. And the rest are
3 in the Hamptons.

4 Q Okay. And what happened in Cape May, New Jersey? The
5 Cape May clips, what are they videos of?

6 A That is when Johnny Alite came to tell me about the Sears
7 score with Steven Catalano and Kevin Barn.

8 Q So it's the video of the day you testified Alite, his
9 children, and Steven DiBono came down to meet with you and you
10 talk about the robbery at the pool?

11 A Yes.

12 Q And where are the other video clips from?

13 A Dune Road. 69, something like that, Dune Road in the
14 Hamptons.

15 Q The Hamptons?

16 A Yeah.

17 Q Any particular time in the Hamptons?

18 A It was Father's Day -- well, it was probably a couple of
19 days later. It was Father's Day weekend, and it was pretty
20 much the last time John went to the Hamptons. He got remanded
21 after that.

22 Q So this was the Father's Day weekend you testified was
23 your last good memory of John Carneglia before he went to
24 jail?

25 A That is correct.

1 Q And this -- you identified a number of people who were
2 present that day.

3 A Yes.

4 Q And you also testified that there were a couple of people
5 that arrived by boats?

6 A Yes.

7 Q And can you remind the jury what the two boats were that
8 came.

9 A There was a white booth, a Baja, "Let's do it" was
10 painted on the side.

11 Q Whose booth was that?

12 A Hunter Adams.

13 Q Okay. And --

14 A The other one was a Fountain. I'm not sure if it was the
15 40-foot Fountain or the smaller one at the time, but he took
16 the name off. They had to switch boats or got rid of it or
17 took the name off. I don't remember which.

18 Q Who is "he" who took the name off?

19 A Carlos.

20 Q Carlos.

21 Okay. And what was the name of that boat before he
22 took of the name off?

23 A "Not guilty."

24 Q And do you know whether he took the name off of it at
25 that point or not?

1 A He did 'cause Gene or John were convicted. So they
2 didn't want to drive around with "Guilty" on it.

3 Q And just generally I would like you to review.

4 And you testified yesterday these were the people
5 that were out in the Hamptons. I would like to remind the
6 jury of their -- that group of people.

7 You testified yesterday that the group out in the
8 Hamptons was you, John Carneglia, Charles Carneglia, Peter
9 Zuccaro, Michael Reiter, Hunter Adams, Tony Muscatello,
10 Angelo Ruggiero, Fat Richie Ingardia, Bobby Schiavo,
11 Michael Albanese, Ronnie DeConza, and a guy named Carlos. His
12 last name started with a V, but you can't remember the last
13 name.

14 A And Angelo's wife.

15 Q Angelo Ruggiero's wife?

16 A Yes. Marie.

17 (Whereupon, the video is played.)

18 BY MR. BURLINGAME:

19 Q Where is this taking place?

20 A That is in Cape May, New Jersey.

21 You said you want to go through it first and then
22 come back.

23 (Whereupon, the video is played.)

24 MR. BURLINGAME: Would it be possible to turn the
25 light down.

1 THE COURT: That is the extent we can turn the
2 lights down.

3 MR. BURLINGAME: Okay.

4 (Whereupon, the video is played.)

5 MR. BURLINGAME: Let's pause it.

6 BY MR. BURLINGAME:

7 Q Who is that?

8 A That is Steven Catalano.

9 Q Can you point out who appears in the frame?

10 A Steven Catalano and Kevin Bonner.

11 Q Those are two people who participated in the -- in the
12 robbery of the Sears?

13 A Yes.

14 MR. BURLINGAME: Okay. Continue.

15 (Whereupon, the video is played.)

16 MR. BURLINGAME: Pause.

17 BY MR. BURLINGAME:

18 Q Who is this?

19 A John Alite and his son.

20 Q And this is taking place at?

21 A The water is right here. The boats are in Cape May,
22 New Jersey.

23 Q And whose place was it Cape May, New Jersey?

24 A My mother-in-law's.

25 MR. BURLINGAME: Okay. Continue.

1 (Whereupon, the video is played.)

2 BY MR. BURLINGAME:

3 Q Who is talking?

4 A Me.

5 Q Who is filming?

6 A Me.

7 (Whereupon, the video is played.)

8 BY MR. BURLINGAME:

9 Q Okay. Who is in this shot?

10 A Johnny Alite, his son, Steven Catalano, and Kevin Bonner
11 cut off in the corner.

12 Q Okay. So that is John Alite in the yellowish tank top?

13 A It is.

14 Q Steve Catalano a light in the purple T-shirt. Johnny
15 Alite's son is the child. And this is Kevin Bonner over here
16 in the white tank top?

17 A That is correct.

18 (Whereupon, the video is played.)

19 MR. BURLINGAME: Can you just pause for a second,
20 Ms. Moore.

21 BY MR. BURLINGAME:

22 Q And Kevin Bonner was one of the guys who went into the
23 Sears pretending to be police officers checking for
24 counterfeit money; that is correct?

25 A Yes, that's right.

1 Q And was he also one of the people who went down to the
2 Papavara Funeral Home?

3 A That's correct.

4 Q He was an associate of John Alite?

5 A He was.

6 Q Okay.

7 MS. SHARKEY: I don't think that this juror can see.

8 MR. BURLINGAME: Are you okay? Just let me know if
9 I get in your way.

10 (Whereupon, the video is played.)

11 MR. BURLINGAME: Please pause.

12 BY MR. BURLINGAME:

13 Q Who is that?

14 A John Carneglia.

15 (Whereupon, the video is played.)

16 BY MR. BURLINGAME:

17 Q Who is this woman that walked across, do you know?

18 A Ronnie DeConza's girlfriend Debbie.

19 MR. BURLINGAME: Continue, please.

20 (Whereupon, the video is played.)

21 MR. BURLINGAME: Pause.

22 BY MR. BURLINGAME:

23 Q Do you know who that is?

24 A Carlo. Carlo, he owned a restaurant.

25 Q And that is the guy who had the red speed booth?

1 A That is.

2 Q Is that the same speed booth you used to go out on
3 Sundays with John Gotti, Sr.?

4 A I am pretty sure it is, yes.

5 (Whereupon, the video is played.)

6 MR. BURLINGAME: Pause, please.

7 BY MR. BURLINGAME:

8 Q Can you see who that is?

9 A No.

10 MR. BURLINGAME: Can you play it a couple of more
11 seconds.

12 THE WITNESS: I think it is Ronnie.

13 (Whereupon, the video is played.)

14 THE WITNESS: Yes. That was Ronnie.

15 BY MR. BURLINGAME:

16 Q Ronnie DeConza?

17 A Yes.

18 Q All right.

19 (Whereupon, the video is played.)

20 BY MR. BURLINGAME:

21 Q Who is this?

22 A John Carneglia.

23 MR. BURLINGAME: If you could just click back a
24 couple of frames.

25 BY MR. BURLINGAME:

1 Q Who is that that John Carneglia is talking to?

2 A Ronnie DeConza.

3 MR. BURLINGAME: Okay. Continue, please.

4 (Whereupon, the video is played.)

5 MR. BURLINGAME: A couple of more frames.

6 BY MR. BURLINGAME:

7 Q Who is in this shot?

8 A Jenny Carneglia, Carlos, and Ronnie.

9 Q Okay. And that is -- Jenny Carneglia is the older woman
10 here in the front of the shot?

11 A She is.

12 Q That is the defendant's mother?

13 A She is.

14 Q John Carneglia's mother as well, obviously?

15 A Correct.

16 Q And the man in the yellow --

17 A T-shirt.

18 Q Well, V neck shirt, who is that?

19 A Ronnie DeConza.

20 Q And the man with the white T-shirt with the writing on
21 the back?

22 A Carlo.

23 (Whereupon, the video is played.)

24 BY MR. BURLINGAME:

25 Q Okay. Can you explain who is who at the table here.

1 A John.

2 Q John Carneglia?

3 A Top of Jenny's head. I can't see who is there. This is
4 John. I think that is Carlos, Ronnie, and another guy
5 Frankie.

6 Q What is Frankie's last name?

7 A I forget.

8 Q And the defense -- the witness started with John
9 Carneglia in the blue-and-white jacket; the top of Jenny
10 Carneglia's head, which is white, just to the right of John
11 Carneglia.

12 Who is this next to John Carneglia, on his left?

13 A Carlos.

14 Q And on Carlos' left?

15 A Ronnie.

16 Q And on Ronnie's left?

17 A Frankie.

18 Q What is Frankie last name?

19 A I forget. I know, but I forget right now.

20 Q Okay.

21 MR. BURLINGAME: Continue, please.

22 (Whereupon, the video is played.)

23 THE WITNESS: Bobby Schiavo.

24 MR. BURLINGAME: Okay.

25 (Whereupon, the video is played.)

1 BY MR. BURLINGAME:

2 Q Do you recognize the voices you are hearing?

3 A Helene Carneglia.

4 Q She is shooting these videos?

5 A She is.

6 (Whereupon, the video is played.)

7 BY MR. BURLINGAME:

8 Q Who is that?

9 A Bobby Schiavo.

10 Q Okay.

11 MR. BURLINGAME: Continue.

12 (Whereupon, the video is played.)

13 BY MR. BURLINGAME:

14 Q Who is that?

15 A Fat Richie and Carlos, and I think that is John.

16 Q That is Fat Richie sitting on the booth?

17 A Yes.

18 Q And that is Carlos standing in the booth?

19 A Yes.

20 Q Your testimony is that is Carlos' booth?

21 A Correct.

22 (Whereupon, the video is played.)

23 BY MR. BURLINGAME:

24 Q Who is that?

25 A Angelo Ruggiero.

1 Q Is that the same Angelo Ruggiero who the defendant told
2 you gave him the body of John Favara?

3 A It is.

4 Q Okay.

5 (Whereupon, the video is played.)

6 BY MR. BURLINGAME:

7 Q Who is that?

8 A Fat Richie.

9 (Whereupon, the video is played.)

10 BY MR. BURLINGAME:

11 Q That is Helene Carneglia who is filming again?

12 A Correct. Her voice.

13 (Whereupon, the video is played.)

14 BY MR. BURLINGAME:

15 Q Do you know who is here?

16 A Angelo Ruggiero and Chris Carneglia.

17 Q Angelo Ruggiero with the life preserver and Chris
18 Carneglia with pink stripe on his bathing suit?

19 A That's correct.

20 (Whereupon, the video is played.)

21 MR. BURLINGAME: Pause.

22 BY MR. BURLINGAME:

23 Q So whose booth was this?

24 A Hunter Adams.

25 Q What was the name of the booth?

1 A "Let's do it."

2 Q Okay. You can't actually read it on the booth now, but
3 you believe that is what it says?

4 A Yes. The copy that I have is clear.

5 Q And there is a red booth in part of this clip.

6 You see in the background that is Carlos' booth?

7 A Yes.

8 MR. BURLINGAME: Continue playing the video, please.

9 (Whereupon, the video is played.)

10 BY MR. BURLINGAME:

11 Q Who is that in that clip?

12 A Chris.

13 Q Chris who?

14 A Carneglia.

15 Q That is John Carneglia's son?

16 A It is.

17 Q Older or younger son?

18 A The oldest.

19 (Whereupon, the video is played.)

20 MR. BURLINGAME: Pause.

21 BY MR. BURLINGAME:

22 Q Who is in this shot?

23 A Peter Zuccaro.

24 Q Who is Peter Zuccaro?

25 A The one with no shirt on.

1 Q Okay. And do you know who next to him?

2 A I think it's the guy Frankie. There is another shot that
3 comes around.

4 (Whereupon, the video is played.)

5 MR. BURLINGAME: Pause.

6 BY MR. BURLINGAME:

7 Q Who is in this shot?

8 A Jenny, Michael Reiter, myself, John Carneglia, and
9 somebody in the background. I don't know who that is.

10 Q This is Jenny Carneglia in the pink shirt?

11 A Yes.

12 Q Michael Reiter in the white bathing suit?

13 A Yes.

14 Q You in the red, white, and black bathing suit?

15 A Yes.

16 Q And John Carneglia with the blue bathing suit and no
17 shirt on?

18 A Yes.

19 MR. BURLINGAME: Continue. Thank you.

20 (Whereupon, the video is played.)

21 MR. BURLINGAME: Pause. Perfect.

22 BY MR. BURLINGAME:

23 Q Who is in this shot?

24 A Hunter Adams, Carlos, and the guy Mark that used to work
25 in the junkyard.

1 Q What is Mark's last name?

2 A Gertz.

3 Q And this is going from left to right on the ocean side of
4 the porch, Hunter Adams on the left, Carlos in the middle, and
5 Mark on the right.

6 MR. BURLINGAME: Thanks.

7 (Whereupon, the video is played.)

8 BY MR. BURLINGAME:

9 Q Who are these two men?

10 A Bobby Schiavo.

11 Q And the person whose head is blocked?

12 A Michael DiAlbanese.

13 Q And they are both in the last couple of frames of this
14 clip without shirts on.

15 (Whereupon, the video is played.)

16 MR. BURLINGAME: Pause again.

17 BY MR. BURLINGAME:

18 Q Who is in this short shirt?

19 A Michael Reiter, Daniel Ruggiero.

20 Q You know who these two women are?

21 A No. Too blurry.

22 Q And that is Michael Reiter in the lower left-hand corner
23 when the first clip appears and Danielle Ruggiero with the
24 white strip?

25 A Yes.

1 Q What's their relationship -- did she have any
2 relationship to Angelo Ruggiero?

3 A She -- that is her uncle, and her father was Sal
4 Ruggiero.

5 (Whereupon, the video is played.)

6 MR. BURLINGAME: Pause it.

7 BY MR. BURLINGAME:

8 Q Who is that in the center?

9 A Me.

10 Q Who is this behind you?

11 A Hunter Adams.

12 Q This is the shot in which the witness is putting lotion
13 on. Hunter Adams is behind him without a shirt on.

14 A Yes.

15 (Whereupon, the video is played.)

16 MR. BURLINGAME: Pause that again, please.

17 BY MR. BURLINGAME:

18 Q Who is in the shirt?

19 A John and Carlos.

20 Q John Carneglia with his back to the camera and Carlos
21 with his the back to the ocean?

22 A Yes.

23 (Whereupon, the video is played.)

24 MR. BURLINGAME: Pause it.

25 BY MR. BURLINGAME:

1 Q Do you know who this is in this last shot?

2 A I think it was one of Mikey, and I don't know who that
3 is. It's Bobby Schiavo.

4 (Whereupon, the video is played.)

5 BY MR. BURLINGAME:

6 Q And who is in this last clip on the frame?

7 A Peter Zuccaro.

8 Q Which one is Peter Zuccaro?

9 A The one with no shirt and sunglasses.

10 Q And who he speaking with?

11 A I am not sure. I thought it was Frankie. I am not
12 positive.

13 Q Okay.

14 (Whereupon, the video is played.)

15 BY MR. BURLINGAME:

16 Q Who is that?

17 A Fat Richie.

18 Q Ingardia?

19 A Yes.

20 Q Okay.

21 (Whereupon, the video is played.)

22 BY MR. BURLINGAME:

23 Q Who is that?

24 A Charles Carneglia, Marie Ruggiero. And Angelo is over
25 there.

1 Q There is Charles Carneglia, the defendant, with the white
2 T-shirt with long sleeves?

3 A That's correct.

4 Q And Marie Ruggiero.

5 Who is Marie Ruggiero?

6 A It was Angelo's wife.

7 Q Do you know whose head this is blocking the frame?

8 A I think Richie Ruggiero's wife, Marie.

9 Q Okay.

10 MR. BURLINGAME: Start it up again.

11 (Whereupon, the video is played.)

12 BY MR. BURLINGAME:

13 Q Who is in this shot?

14 A Charles and Angelo.

15 Q Angelo Ruggiero?

16 A Yes.

17 Q So, this is -- and, again, Angelo Ruggiero is the one who
18 gave John Favara's body to dispose of?

19 A Yes.

20 Q And this is them in the kitchen of the house that
21 John Carneglia rented in the Hamptons for Father's Day?

22 A Yes.

23 Q 1989?

24 A Yes.

25 (Whereupon, the video is played.)

1 BY MR. BURLINGAME:

2 Q And who is this?

3 A Marie.

4 Q That is Angelo Ruggiero's wife?

5 A Yes.

6 (Whereupon, the video is played.)

7 MR. BURLINGAME: That is it.

8 (Matter continued on the next page.)

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1 MR. BURLINGAME: May I proceed, Judge?

2 THE COURT: Please.

3 DIRECT EXAMINATION (CONT'D.)

4 BY MR. BURLINGAME:

5 Q After you got out of jail in 2004 from the extortion case
6 did you continue to commit crimes for the Gambino family?

7 A No.

8 Q Why not?

9 A I stopped talking to everybody in 2000. The only thing I
10 did was after I got out of jail was give the guns and that was
11 it, I didn't see nobody or do anything else ever again.

12 Q You gave the guns?

13 A To Allen Meshanski and that was the last thing I ever
14 did.

15 Q That was before you got out of jail?

16 A Yes, that was before. I learned my lesson the first five
17 months, I didn't need to go the extra.

18 Q After you got out of jail in 2004 did you continue to
19 commit crimes for the Gambino family?

20 A No.

21 Q And why not?

22 A I was done in 2000, I learned the first five months. I
23 was a quick learner.

24 Q Did people calling you a rat have anything to do with
25 your decision?

1 A Yes. It was just a better way to live.

2 Q What did you do to support yourself after you got out of
3 jail in 2004?

4 A I worked two jobs.

5 Q What jobs?

6 A Steamfitters and motion picture mechanic.

7 Q How long did you work at these jobs?

8 A Up until I went to trial in 2006, October.

9 Q That's the Florida trial for the two robberies?

10 A That's correct.

11 Q How were you arrested again if you weren't committing any
12 crimes at the time?

13 A As an agent said to me, the wheels of justice are slow.
14 I got charged for old stuff.

15 Q And you lost that racketeering case at trial?

16 A That's correct.

17 Q Have you been sentenced on it yet?

18 A I have not.

19 Q What sentence are you facing on that case?

20 A The guideline range is 121 to 151.

21 Q 121 to 151 what?

22 A Months, ten to twelve years.

23 Q What did you decide to do after you were convicted?

24 A The lawyer came to me and said something that all the
25 lawyers been telling me, the government wants to talk to you

1 about cooperation and that's what I did.

2 Q You decided to start cooperating?

3 A That's correct.

4 Q Why you did you decide to start cooperating?

5 A Well, I knew that other cases would come. I didn't know
6 for sure.

7 Q Which other cases were you worried about?

8 A These that I pled guilty to.

9 Q The two murders?

10 A Correct.

11 Q When did you decide to cooperate?

12 A Sometime late December or early January.

13 Q What years?

14 A 2006 of December and January 2007.

15 Q Did you begin engaging in proffer sessions with the
16 government?

17 A I did.

18 Q What's a proffer session?

19 A A proffer session is where you tell them all the crimes
20 you did.

21 Q In what type of location were you first proffered?

22 A The first location was I was snuck out of the Hernando
23 County Jail for a couple of hours, usually they say, oh, you
24 got to go to medical or a lawyer visit, and I was brought to
25 the Tampa -- Middle District, Tampa United States Attorney's

1 Office in Florida.

2 Q Approximately how many people were present when you were
3 first proffered?

4 A Fifteen, something like that.

5 Q Do you know what prosecutors' offices were present at
6 that meeting?

7 A The Florida prosecutor was there, Jay Trezevant, and a
8 couple of other New York prosecutors, one or two.

9 Q Were different law enforcement agencies present?

10 A There were.

11 Q You testified that first proffer session was a couple of
12 hours?

13 A Yeah, they snuck me in and out, yeah.

14 Q Did you tell the government about the crimes you
15 committed?

16 A I did.

17 Q Did you tell the government about the crimes you
18 committed?

19 A I did.

20 Q Did that include crimes beyond the ones you'd already
21 been convicted of?

22 A Yes.

23 Q Did you tell them about the murders you were involved in?

24 A I did.

25 Q The Delgado Rivera and the DiBono murders?

1 A Yes.

2 Q You were not charged with the murders at the time you
3 told the government, correct?

4 A I was not charged, no.

5 Q To your knowledge, was the government aware of your
6 participation in them?

7 A To my knowledge, no.

8 Q But you suspected because you believed Peter Zucarro was
9 cooperating?

10 A That is --

11 MS. SHARKEY: Objection to form.

12 THE COURT: I'll allow it.

13 A Correct.

14 Q In that first proffer session did you discuss every
15 detail of every crime you talked about?

16 A No.

17 Q Why not?

18 A It was a couple of hours and there was no way you could
19 get into details.

20 Q Did you continue to meet with the government to debrief
21 after that first proffer session?

22 A I did.

23 Q Approximately how many times did you meet with the
24 government before you were offered a cooperation agreement?

25 A Three or four.

1 Q During those sessions were you asked questions?

2 A Yes.

3 Q Did you answer them honestly?

4 A Yes.

5 Q Did you decide what would be talked about?

6 A I did not.

7 Q Who did?

8 A The government or the FBI.

9 Q Did the government ever promise you you would be released
10 on bail in exchange for your cooperation?

11 A The government didn't say that, no. They said they would
12 consider it.

13 Q Did you ever believe that you would be released on bail?

14 A I made it very clear to my lawyer that if the government
15 wanted to talk to me, I wanted to be released on bail and
16 proffer and cooperate and then go to jail like I did in the
17 extortion case, self-surrender to a jail, yes.

18 Q Did there come a time that you became upset that you were
19 not released on bail?

20 A Yes.

21 Q Why were you upset?

22 A Exactly, I was in jail, I was going out a couple of
23 times, I was starting to have problems with inmates. They
24 were like, oh, you're a rat, you keep going out and nobody is
25 down there and you disappear. They even tried to say, well,

1 what did you have for lunch if you were downstairs and I
2 got -- I would get caught. So, I was having a lot of tension.
3 I had staph infections. I had a lot of stuff going on. And
4 the defendant was out, Charles, and I just didn't -- I knew it
5 was passing too long and he was out in the street so I didn't
6 want my family to have a propane tank thrown through the
7 window.

8 Q Why do you say a propane tank thrown through the window?

9 A Because that's what he wanted to do to Angelo Ruggiero's
10 wife and kids.

11 Q When you say it had been going on too long, what do you
12 mean?

13 A People go online and lawyers and stuff and when you get
14 convicted it usually takes a couple of months and then you
15 usually get sentence, that's usually how it works unless you
16 have a health issue or something major comes up or the most
17 obvious, cooperating. So, it was six months or five months
18 and people were talking and calling my wife up and saying,
19 well, you know, he's a rat and he ain't sentenced and it was
20 kind of obvious.

21 Q Who were you upset with that you didn't get out on bail?

22 A Jay Trezevant.

23 Q Who is he?

24 A The Florida United States Attorney.

25 Q How did you express to him that you were upset?

1 A I probably wrote him a twisted letter I guess.

2 Q Did you write him more than one letter?

3 A I did.

4 Q Why did you write those letters?

5 A I guess I was just frustrated with all the atmosphere and
6 everything that was going on and I believe and trust him and I
7 believe him to be an honorable person and he told me that I
8 would consider the bail and the furloughs --

9 MS. SHARKEY: Objection.

10 THE COURT: No, I'll's permit it to show the
11 witness' state of mind.

12 Q Sorry, he told you that he would consider bail and
13 furloughs?

14 A Right. First my lawyer came to me and said, oh, they
15 want you to cooperate. I said I have nothing to say unless my
16 bail is put back this way I can self-surrender, I know I have
17 to go to jail, I'm not going to talk.

18 Q So, in your mind you turned that into a promise that you
19 would get on bail?

20 A He said that he would consider bail and furloughs, I have
21 no problem with it. It wasn't him that made the ultimate
22 decision, it was New York that stopped it.

23 Q Did you also write a letter to the judge in your Florida
24 case?

25 A I did.

1 Q Why did you write to the judge?

2 A Same reason, I was getting a lot of static from inmates,
3 they started messing with my stuff, throwing shit on my bed
4 and saying, oh, he's a rat. So, I said -- I wrote a letter to
5 the judge saying that I oppose getting -- oppose any more
6 delays so that it would come up on PACER and people would say,
7 oh, there's a reason he's not sentenced.

8 Q What is PACER?

9 A PACER is a -- lawyers use it to write, to correspond I
10 guess back and forth.

11 Q And you were hoping that your letter saying that you
12 didn't want any adjournment of your sentencing would come up
13 on that service?

14 A That is correct.

15 Q Lawyers would be able to see that you wanted to get
16 sentenced?

17 A Yeah, I was trying to avoid getting something stuck in
18 me.

19 Q From the date you first proffered until now,
20 approximately how many times have you met with the government?

21 A Ten or twenty but all different prosecutors, they came
22 and left and started over again.

23 Q How many prosecutors would you say you met with?

24 A Three different ones and then you, which is four, and Jay
25 Trezevant.

1 Q Five, to the best of your recollection?

2 A Yeah, that's accurate.

3 Q You said ten or twenty meetings?

4 A Yes.

5 Q Which is more accurate?

6 A Probably 15 I guess it was, probably a couple of -- like
7 four before April, then I signed the proffer and I seen him
8 again. I guess 15.

9 Q Have you met different law enforcement agents?

10 A I did.

11 Q Approximately how many different agents have you met
12 with?

13 A Florida FBI, New York FBI, cold case squad, Port
14 Authority, transit cops, Port Authority cops I mean, the same
15 thing.

16 Q How many different agents do you think you met with?

17 A They switched, people left, went to different things.

18 Q Number of agents, ballpark?

19 A Twenty.

20 Q During these sessions, in addition to talking about your
21 crimes, did you tell the government about other people's
22 crimes?

23 A Yes.

24 Q Other people in the Gambino family?

25 A Correct.

1 Q Other people in other organized crime families?

2 A That's correct.

3 Q Did you determine what was talked about in these
4 meetings?

5 A No.

6 Q Ever?

7 A Never.

8 Q Were you able to pick and choose which people you talked
9 about?

10 A No, it's not part of the proffer.

11 Q How many years were you committing crimes on a daily
12 basis with the Gambino family?

13 A I guess from the jury tampering on.

14 Q Have you talked about crimes over that entire period of
15 time with the government?

16 A Yes.

17 Q When you met with the government did the agents take
18 notes?

19 A Some of them did, yeah.

20 Q Do you know if the agents later wrote reports based on
21 your debriefings?

22 A Yes.

23 Q Have you ever seen any reports or notes of your
24 debriefings?

25 A I have not.

1 Q How do you know if the agents wrote reports?

2 A Because usually they do, that's what -- I sat through a
3 trial, that's what they do and they interview people, bump
4 into people, 302-s or something like that.

5 Q Do you still continue to be debriefed about different
6 matters?

7 A I do.

8 Q By different prosecutors' offices?

9 A That's correct.

10 Q Different FBI and other law enforcement agents?

11 A Correct.

12 Q Do you expect to testify in other cases?

13 A I hope not but probably I will.

14 Q Are you incarcerated now?

15 A Yes.

16 Q Are you in protective custody?

17 A I am.

18 Q Why?

19 A So nothing sharp falls on me like a knife in the back.

20 Q Did you speak to myself and others before testifying
21 today?

22 A I did.

23 Q Did you speak to me several times?

24 A I did.

25 Q Did we go through questions?

1 A We did.

2 Q Did we discuss cross-examination?

3 A You said to stay calm and not to get frustrated, yes.

4 Q Were you provided with information about the case?

5 A No.

6 Q Were you shown any documents?

7 A None.

8 Q Were you shown any newspaper articles?

9 A No.

10 Q Were you shown any physical evidence?

11 A No.

12 Q Were you told who you would testify against?

13 A No, but I had an idea from the questions.

14 Q You were able to figure out who you would be testifying
15 against based on the questions that were asked of you?

16 A That's correct.

17 Q When did you sign your cooperation agreement?

18 A April sometime.

19 Q What year?

20 A 2007.

21 Q When you signed your cooperation agreement did you plead
22 guilty to new crimes?

23 A I agreed to plead guilty, I don't know if that's what it
24 meant. The cooperation agreement I thought meant that you
25 will. I don't think I pled guilty at that time.

1 Q Since you signed your cooperation agreement did you plead
2 guilty to new crimes?

3 A I did plead guilty, yes.

4 Q What crimes?

5 A The armored car robbery and the World Trade Center
6 murder.

7 Q The armored car --

8 A And the jury tampering.

9 Q Is the armored car robbery -- when you say the armored
10 car robbery, did you plead guilty to the felony murder of
11 Delgado Rivera?

12 A I did.

13 Q When you say the World Trade Center, you pled guilty to
14 the DiBono murder?

15 A Yes.

16 Q Did you also plead guilty to jury tampering?

17 A I did.

18 Q Were all those part of a racketeering case?

19 A They were.

20 Q What district did you plead guilty in to these crimes?

21 A This district, the Eastern District.

22 Q This courthouse?

23 A Correct.

24 Q How did the government find out about your participation
25 in the crimes you pled to, as far as you know?

1 A My big mouth.

2 Q Why did you tell the government about participating in
3 murders?

4 A That's part of the cooperation agreement, you got to tell
5 everything.

6 Q What sentence are you facing for those murders?

7 A It's a RICO, life.

8 Q In addition to the life sentence for the murders, do you
9 still face the 121 months to 151 months for the robbery you
10 were convicted of at trial?

11 A It could be run consecutive after. I guess you'd have to
12 die and come back, yeah.

13 Q Did you plead guilty to every single crime you told the
14 government about in the debriefings?

15 A I did.

16 Q May I ask you again, did you plead guilty to every single
17 crime you ever told the government about in the debriefings?

18 A I did not plead guilty to every single crime, just the
19 ones you mentioned.

20 Q Did you plead guilty to every crime the government asked
21 you to plead guilty to?

22 A I did.

23 Q Do you know if the government had a case against you for
24 all the crimes you pled guilty to?

25 A Did not, no.

1 Q Do you know if the government had a case against you for
2 the two murders?

3 A I don't think so.

4 MS. SHARKEY: Objection.

5 Q Do you know?

6 A I don't know.

7 Q Have you been sentenced for these crimes?

8 A No.

9 Q I'm showing you what's been marked as 3500-KM-2C. What
10 is that?

11 A It's a cooperation agreement.

12 Q Whose cooperation agreement is it?

13 A It's mine.

14 Q How do you know?

15 A I signed it.

16 Q Under that agreement what's the maximum penalty you face?

17 A Life.

18 Q Can you be fined?

19 A I could be fined and restitution, yes.

20 Q Who decides the fine and restitution?

21 A District Court judge.

22 Q Do you know what your sentence will be?

23 A No.

24 Q Has anyone ever promised you what sentence you'll
25 receive?

1 A No.

2 Q Who decides your sentence?

3 A The judge.

4 Q What's your understanding of your obligations under that
5 cooperation?

6 A It's simple, all I got to do is tell the truth.

7 Q What do you do if you live up to your part of the
8 cooperation?

9 A The government writes a 5K1 letter.

10 Q What's a 5K1 letter?

11 A It enables the judge to move away from the mandatory life
12 sentence and go under it.

13 Q Does the government recommend a sentence in the 5K
14 letter?

15 A No.

16 Q Who decides the sentence after reviewing that letter?

17 A Federal judge.

18 Q For your Florida case, a federal judge in Florida?

19 A Yes.

20 Q And for the New York case, a federal judge here in this
21 district?

22 A They could be run consecutive, I mean Florida doesn't
23 have to run them concurrent or New York doesn't.

24 Q A federal judge in this district will decide your
25 sentence, correct?

1 A Correct. Then I have to go to Florida and deal with that
2 one.

3 Q As you sit here today, do you have any idea how much time
4 you will get when you're sentenced?

5 A I do not.

6 Q What is your understanding of what happens if you lie?

7 A I'm stuck.

8 Q What does that mean?

9 A Go directly to jail for life, do not pass go.

10 Q Do you get to take your guilty plea back?

11 A I do not, I'm stuck.

12 Q Any possibility of parole?

13 A There's no parole in the federal system before '86 or
14 something.

15 MR. BURLINGAME: No further questions.

16 MS. SHARKEY: May I?

17 THE COURT: You may.

18 MS. SHARKEY: Could I have the screens moved
19 please. Thank you.

20 (Pause.)

21 MS. SHARKEY: Thank you.

22 May I, Judge?

23 THE COURT: Yes, please.

24 CROSS-EXAMINATION

25 BY MS. SHARKEY:

1 Q Mr. McMahon, on November 29th of 2006 you were convicted
2 of a racketeering conspiracy in Tampa, Florida, right?

3 A Correct.

4 Q And you were convicted of a racketeering conspiracy in
5 November of 2006 with Ronald Trucchio, right?

6 A Yes.

7 Q Ronald Trucchio is a captain in the Gambino crime family,
8 right?

9 A Yes, he is.

10 Q And the other defendants on that indictment were
11 Trucchio, John Alite, Steve Catalano, Michael Malone and Terry
12 Scaglione, right?

13 A That's correct.

14 Q And Ronald Trucchio, the captain with the Gambino crime
15 family, has illegal activities or had illegal activities in
16 New York, New Jersey and Florida, right?

17 A That is correct.

18 Q And you were indicted, went to trial and were convicted
19 with Ronald Trucchio, correct?

20 A Correct.

21 Q And Charles Carneglia was not charged in that indictment,
22 was he?

23 A He was not.

24 Q And you were charged and convicted for participating in a
25 conspiracy with Ronald Trucchio, Johnny Alite, Catalano and

1 Malone from '84 to June of 2005, right?

2 A That's correct.

3 Q And you were convicted for your participation in the
4 Papavero robbery and also for your participation in the Sears
5 robbery, right?

6 A Yep.

7 Q And Charles Carneglia was not indicted with you, right?

8 A He was not.

9 Q Now, after you were convicted in November of '06 you were
10 facing 20 years, right?

11 A Yes.

12 Q And within two months you had presented yourself to the
13 government to cooperate to get out from under that sentence,
14 right?

15 A Yes.

16 Q And it was your intention to do whatever you had to do
17 not to serve that sentence where you were indicted and
18 convicted under Ronald Trucchio in Tampa, Florida, right?

19 A That's correct.

20 Q Now, you provided the government with information during
21 the course of your proffer sessions, right?

22 A Yes.

23 Q And one of the things you told the government in one of
24 your conversations was that you recruited John Alite to be a
25 cooperator with them, right?

1 A I'm not sure if I used that word but I told Johnny Alite
2 he was dead and he should cooperate. I'm not sure where
3 you're getting that information from.

4 Q Well, you wrote some letters to Mr. Trevant (sic), right?

5 A I did but I haven't seen them. The government wouldn't
6 show me them.

7 Q Would a copy of one of those letters refresh your
8 recollection that you informed the government that it was you
9 who brought Johnny Alite to the cooperation?

10 A It would refresh my memory, sure.

11 MS. SHARKEY: 3500 KM-32, page four.

12 Q I'd ask that you read the first three paragraphs and see
13 if that refreshes your recollection that after you decided to
14 cooperate with the government after your conviction you wrote
15 to the government and said it was you that brought Alite to
16 the cooperation, yes or no, first three paragraphs?

17 (Pause.)

18 A You said -- what was the word you -- I said as well as
19 told Alite to cooperate, that's what I said. I told him he
20 should cooperate, that is correct, he was dead. I told him he
21 should cooperate, you said something different.

22 Q Mr. McMahon, did you write to the U.S. Attorney in
23 September of '07 after you had been cooperating for months and
24 months and you talked about a number of things that we'll talk
25 about today but one of the things you told the U.S. Attorney

1 that it was you who told John Alite to cooperate with the
2 government, right?

3 A I think I explained that on testimony, I told him he was
4 dead and to cooperate, that's what I said, yes.

5 Q Thank you. And you also told the government during the
6 course of your many meetings that John Alite was avoiding
7 telephone monitoring, right?

8 A Correct.

9 Q Now, John Alite was a friend of yours, right?

10 A He was not.

11 Q Well --

12 A Was was the word.

13 Q You did many things with and for John Alite, didn't you?

14 A That is correct.

15 Q And, in fact, you participated in the Sears robbery with
16 John Alite, right?

17 A You said the word was, was is a past tense, isn't it.
18 Was was after everyone was calling me a rat in 2000 along with
19 him, so that is was, was a friend, no longer. I did a lot of
20 things and, yes, I was friends with him but after he was
21 running around calling me a rat friend is not the word I'd
22 use.

23 Q Well, you testified on direct examination that at Johnny
24 Alite's behest after he was in jail you went and beat somebody
25 up who was living in his girlfriend's house, right?

1 A Yes, that was in the 90's, that wasn't past 2000. Past
2 2000 I wasn't friends with anybody anymore.

3 Q You did whatever John Alite wanted you to do, right?

4 A No, he couldn't control me.

5 Q Well, you also kidnapped someone for John Alite, right?

6 A No, that was John Junior ordered that.

7 Q Well, did you, John Alite Frank Radici and your
8 brother-in-law, Mr. Finnerty, kidnap somebody, beat them up in
9 the car?

10 A That's what I testified to in this court, yes.

11 Q And you did that with John Alite, right?

12 A I did it with John Alite, not for John Alite.

13 Q And also you testified on direct examination that after
14 this persons was beaten up and thrown from the car you shot a
15 gun next to his head and blew out a car tire, isn't that
16 right?

17 A That's what I testified to, that's 100 percent correct.

18 Q And you also testified that along with John Alite you
19 went and did what you described as a home invasion, right?

20 A That's correct.

21 Q You entered somebody's house with guns and weapons,
22 right?

23 A Yes, I did.

24 Q And you stole --

25 A Wait, wait, back up, back up. What did you say again, I

1 entered the house with weapons?

2 Q Did you enter the house with weapons?

3 A I did not. After everybody was tied up I went in the
4 house and tried to open the safe, found out I couldn't open it
5 and took it and put it in the car and left.

6 Q Are you trying to say that you didn't know that the
7 people who broke into that house had guns and weapons,
8 Mr. McMahon?

9 A I'm not trying to say that, I just didn't want you to put
10 words in my mouth.

11 Q Mr. McMahon, did you enter the house?

12 A Yes, I did.

13 Q With John Alite and other individuals?

14 A Yes, I did, after the people were tied up I did.

15 Q And did those other individuals, John Alite and his crew,
16 have guns and weapons?

17 A You said I had the guns, at that time I didn't have a
18 gun.

19 Q Were you participating with them?

20 A Yes, I was.

21 Q You acted in concert with them?

22 A Yes.

23 Q Do you consider yourself responsible --

24 A As guilty as them under the charge.

25 Q -- with regard to that robbery and do you --

1 A 100 percent under the law.

2 Q Now, in addition to kidnapping with John Alite, breaking
3 into people's homes with John Alite, you also did other things
4 for John Alite, right?

5 A I did a lot of things. I don't remember if I -- if I
6 didn't testify to them I didn't remember them. I did a lot of
7 things, yes.

8 Q And one of the things was you delivered guns to Michael
9 Malone for John Alite, didn't you?

10 A I don't remember but I remember getting a gun or -- I
11 remember more of receiving a gun from Michael Malone or
12 getting it, I'm not really sure.

13 Q Well, you testified yesterday when Mr. Burlingame was
14 asking you questions that you remember sitting through your
15 trial in Florida, right?

16 A Yes.

17 Q And your memory was refreshed by some of the things the
18 cooperators testified about, right?

19 A That's correct.

20 Q And one of the individuals who was one of your
21 co-conspirators in this Florida case under captain Trucchio
22 was Michael Malone, right?

23 A Yes.

24 Q And Michael Malone testified against you, right?

25 A Correct.

1 Q And isn't it a fact that Michael Malone said that he was
2 sent to your home by John Alite and you gave him an Uzi
3 machine gun and a pistol, isn't that accurate?

4 A I'm not -- I don't remember it exactly. I wasn't denying
5 I received or gave guns, I'm not denying that. I just don't
6 know which transpired.

7 Q Would a copy of the testimony from your trial with
8 Trucchio and Alite refresh your recollection on this issue?

9 A It wouldn't refresh my recollection because I didn't say
10 it and I just don't remember. I'm not denying that I got or
11 received the gun, I don't remember.

12 Q Is that because you've given guns to so many people over
13 the course of the years that you just can't keep track?

14 A That's not accurate, no.

15 Q Well, did you give an Uzi and a pistol to Michael Malone
16 at the bequest or at the direction of John Alite, yes or no?

17 A That's not correct, no.

18 Q You don't remember that?

19 A That's not how it went. That's not how it went. I
20 either -- it was because Charles told him to give it to Johnny
21 Alite to feel comfortable.

22 Q Let me ask you a question; you were tried and convicted
23 in Florida, right?

24 A That's correct.

25 Q Mr. Carneglia wasn't indicted on that case, right?

1 A You want me to elaborate on why he wasn't?

2 Q I think that the prosecutor will be able to do redirect
3 very well.

4 A Okay.

5 Q Mr. Carneglia wasn't indicted on that case, right?

6 A That's correct.

7 Q And, in fact, Malone testified against Alite, Trucchio
8 and others and you, right?

9 A Correct.

10 Q And you were sitting there while Malone testified, right?

11 A I was.

12 Q And you remember Malone's testimony when Mr. Burlingame
13 asked you questions yesterday, right?

14 A If you say so. I don't remember exactly what Michael
15 Malone testified so I remembered more things, when he brought
16 it up I remembered it.

17 Q And isn't it accurate to say that your co-conspirator in
18 Florida testified that, in fact, you gave a Uzi machine gun
19 and other guns, a pistol, to Malone at the direction of John
20 Alite, yes or no?

21 A If you say he testified to it and you have it in writing,
22 I'll agree, yes.

23 Q Well, let's get it from you, sir.

24 A It doesn't matter what he said, I don't remember it.

25 That's what you're trying to get at. I gave him an Uzi,

1 either I received it or I gave it, I mean we're going back and
2 forth. I'm not arguing or denying it, I just don't remember
3 how many things I gave or got from him.

4 Q Do you remember selling marijuana?

5 A Yes.

6 Q To Malone?

7 A Excuse me?

8 Q Do you remember selling marijuana to Malone?

9 A Yes, I do remember that.

10 Q Pounds, right?

11 A He picked up a couple of pounds, yes, I do remember that
12 now.

13 Q And that would be in the mid-90's, right?

14 A That would be in the mid-90's, that's correct.

15 Q And you remember selling cocaine to Malone?

16 A That I don't remember but I might have, I don't remember.

17 Q That's because that you sold cocaine and marijuana to
18 make money, right?

19 A I didn't sell the cocaine, I tried to sell the --

20 Q I'm sorry?

21 A I tried making money off of pot. Coke I wasn't -- I
22 didn't try to sell it to make money, I did people favors and
23 got it. I didn't know what I was doing, bought baby powder
24 and all kinds of other bad stuff, so I wasn't good at it.

25 Q You just gave cocaine away to your friends, is that your

1 testimony in front of this jury?

2 A If people wanted a couple of pounds of pot and they said
3 could you get me a gram, that's what I did.

4 Q Where did you get the cocaine from?

5 A Different people at the time, I don't remember exactly
6 who.

7 Q Did you tell the government who it was you got the
8 cocaine from?

9 A I didn't remember so I couldn't tell them.

10 Q Now, Mr. McMahon, prior to your conviction in Florida you
11 testified on direct examination that you had countless
12 contacts with the courts and law enforcement, right?

13 A A little while ago?

14 Q Yesterday?

15 A During the proffer, yes.

16 Q And today?

17 A Yes.

18 Q Right. I'm directing your attention to illegal activity
19 in which you engaged and had contact with members of law
20 enforcement or the courts.

21 A Could you repeat the question, what time span did you say
22 that was?

23 Q Over the course of your whole life?

24 A Oh, yes, I did. I thought you meant from 2006 back. I
25 got lost.

1 Q Mr. McMahon, you testified yesterday that you stole over
2 500 cars, right?

3 A Yes, it was an accurate figure, yes.

4 Q Well, when you first started proffering with the
5 government in January of 2007 didn't you tell them that you
6 had stolen over 1,000 cars?

7 A I probably did, yes. I'm not sure exactly. He said do
8 you think more than a thousand. We're roughing it, yes.

9 Q And how many times did you go to jail for stealing cars,
10 sir?

11 A None that I could remember. No, none. I did weekends
12 one time, that was about it, in Rikers Island.

13 Q Weekends, probation, you got violations, right?

14 A That's correct.

15 Q You didn't spend a day in jail, right?

16 A No.

17 Q And you testified that in regards to the stealing of
18 thousands of cars or a thousand cars you were also involved in
19 insurance fraud, right?

20 A Yes.

21 Q How many times did you register cars fraudulently?

22 A Too many to remember.

23 Q About a thousand?

24 A No, no, no, no, ten, twenty times.

25 Q And you never went to jail for any of that, right?

1 A Actually I did weekends for that, yes.

2 Q And when you say you did weekends, you'd go in on a
3 Friday, you'd get out on a Sunday?

4 A That's jail, yes.

5 Q And that lasts over a couple of weeks or months, correct?

6 A That's correct.

7 Q And your attorney in those cases was Mr. Singer?

8 A I had numerous attorneys. It might have been, I'm not
9 exactly sure.

10 Q You used Mr. Singer a lot as an attorney?

11 A Dave DiPietro I used, I used Herb -- a lawyer out of Herb
12 Lyon's office, Bernie something.

13 Q Now, the most you did was weekends in jail, right?

14 A That's correct.

15 Q This Florida conviction was the first time you were
16 facing major time, right?

17 A When we got pinched for the extortion I was told we were
18 facing ten years also. I wasn't a lawyer, I didn't know what
19 we were facing.

20 Q Well, we'll get to that. Let's talk about that. You,
21 Carl Klein, Ronnie DeConza, Sal Scala and Charles Carneglia
22 were indicted, right?

23 A That's correct.

24 Q And that was in regards to what you were talking about
25 with Mr. Burlingame this morning concerning the Cherries Video

1 Store, right?

2 A That's correct.

3 Q And you were indicted in June of 2000, right?

4 A Yes.

5 Q And, in fact, you made bail on that case, correct?

6 A Five months later.

7 Q And you put up a million dollars personal recognizance
8 bond, right?

9 A That's correct.

10 Q And you made bail and your lawyer negotiated a plea for
11 you on that matter, correct?

12 A That's correct.

13 Q And before you were sentenced though you in fact were
14 indicted again, right?

15 A I got arrested in June and while I was arrested, while I
16 was in custody they arrested me on the picture case in
17 October, that's correct.

18 Q And when you say "on the picture case," you were in fact
19 arrested and indicted after you took a plea?

20 A No, that's not correct.

21 Q Were you indicted for the picture case in 2001,
22 specifically July 16, 2001?

23 A I remember it hitting the paper in October while I was in
24 jail and it was a joke, got rearrested in jail. I don't know
25 if your papers are misinformed but that's what I remember and

1 that's what happened.

2 Q And you got out on bail on that case too?

3 A I went --

4 Q Right?

5 A I went to Judge Mishler, then I came to this courthouse
6 and I went in front of Judge Trager. So, yes, I went, I got
7 bail in November in Central Islip, then we drove -- the
8 marshals drove me to this courthouse and I went in front of
9 Judge Trager and got out on bail and had a requirement to call
10 once a week or call every day. I got out on bail, yes.

11 Q And you got out on a million dollars personal
12 recognizance bond?

13 A It sounds impressive but it's not, it's just house
14 properties.

15 Q Now, Mr. McMahon, you testified that you were indicted on
16 that case but you were indicted with Robert Walsh and Dominick
17 Curra, right?

18 A Correct.

19 Q Those were your co-defendants in that case, correct?

20 A Correct.

21 Q And you testified yesterday that you were attempting to
22 sell fraudulent paintings, correct?

23 A I believe I testified to I thought they were real and
24 then we found out they were fake. Another cooperator had the
25 idea of selling them in a gallery, yes, and that's fraudulent,

1 ,yes, that's correct.

2 Q When you said you thought they were real, you thought
3 they were real and stolen, right?

4 A When I had them I thought they were real. I even took a
5 picture like I was signing it and playing with it, yeah, I
6 thought they were real. I thought it was -- I thought it was
7 remarkable to have old masters in my possession because when
8 we got them checked out they said they were real.

9 Q Real and stolen, right?

10 A Stolen, 100 percent stolen.

11 MS. SHARKEY: I'm going to ask, Judge, this is a
12 photograph, Government Exhibit, Discovery Exhibit 398; Defense
13 H.

14 Pardon?

15 MR. FARBER: H.

16 Q Do you recognize that photograph, sir?

17 A I think I just testified about this two seconds ago, yes.

18 Q I'll ask you again, do you recognize that photo,
19 Mr. McMahon?

20 A Yes.

21 Q And what do you recognize that photo to be?

22 A It's a picture with glass on it, me with a magic marker.

23 Q And is it a picture of one of the stolen paintings for
24 which you were indicted for?

25 A No, I wasn't indicted for stolen, I was indicted for fake

1 pictures, conspiracy to commit art fraud, not possession of
2 stolen pictures.

3 Q Well, Mr. McMahon, you believed that the paintings were
4 real but stolen, right?

5 A That's what I believed, yes.

6 Q And later you found out that they weren't real so you
7 sought another venue in which to profit from their possession,
8 right?

9 A 100 percent, yes, correct.

10 Q And that is a picture of you with one of the paintings,
11 correct?

12 A Yes.

13 Q Who took that picture?

14 A I might have had it on a timer, you put it on delay, you
15 get behind it, it blinks and then it flashes.

16 MS. SHARKEY: Judge, move to admit as Defense
17 Exhibit H.

18 THE COURT: H, as in Harry, admitted.

19 MS. SHARKEY: Thank you, Judge.

20 (Defendant's Exhibit H received in evidence.)

21 MS. SHARKEY: May I show it to the jury?

22 THE COURT: You may.

23 MS. SHARKEY: Do you want to see it?

24 THE COURT: No.

25 (Pause while exhibit is published.)

1 MS. SHARKEY: Actually, Judge, can I pass it to the
2 jurors so they can see it and pass it amongst themselves?

3 THE COURT: If you'd like.

4 Q Now, Mr. McMahon, your lawyer was able to negotiate a
5 plea on that case and on the Cherries extortion case of about
6 33 months, right?

7 A That's correct.

8 Q And that covered both cases, right?

9 A I got a two point enhancement for grouping, yes, they
10 raised my level. I didn't get a break on it.

11 Q You had 33 months for two indictments, right?

12 A That's correct.

13 Q And on that conspiracy to commit mail fraud you were
14 indicted with Robert Walsh and Dominick Curra, right?

15 A Correct.

16 Q And eventually you were sentenced on both of those cases,
17 right?

18 A Yes, Judge Mishler retired and I got sentenced by Judge
19 Spatt, yes.

20 Q And you were able to get some benefits during the course
21 of that sentencing and by that I mean you were able to
22 negotiate six months of that 33 months for home detention,
23 right?

24 A Nice try, no, that's not correct.

25 Q Did you have six months of home detention?

1 A I did not.

2 Q Have you ever reviewed the electronic docketing in that
3 case?

4 A I know what I did and what I got. No, I don't need to do
5 that. I tried to get six months home confinement, it didn't
6 work. I had five months incarceration that I got credited
7 towards my 33 months and then I had 2.8 months halfway house
8 is how it works.

9 Q Okay. So, you had six months halfway house, right?

10 A That is not correct. I just said 2.8. Where did you get
11 six.

12 THE COURT: Excuse me, don't --

13 THE WITNESS: I'm sorry.

14 THE COURT: -- snap back at the cross-examiner.
15 Just answer.

16 THE WITNESS: I'm sorry.

17 Q How much time did you get at the halfway house?

18 A 2.8. I went in, I got released from Fort Dix in April,
19 the end of April or April 16th and I went -- and I think my
20 sentence ended in July.

21 Q Of what year?

22 A July, I think the date was July 14th is exactly when my
23 sentence expired.

24 Q What year?

25 A The same year, 2004.

1 Q And you testified that you did your time at Fort Dix at
2 the camp, correct?

3 A I started in the Fort Dix low, then they checked your
4 security levels, see what you worked, and then transfer you to
5 the camp, yes, that's correct.

6 Q And when you were at the camp it was a more modified term
7 of imprisonment, correct; you had a little more freedom than
8 you did on the other side at Fort Dix, is that accurate?

9 A Way more freedom, drove around in cars, cleaned
10 buildings, yes.

11 Q And when you were released from jail you were
12 subsequently on --

13 A Supervised release.

14 Q -- supervised release, right?

15 A Correct.

16 Q And then you were indicted on the Florida indictment,
17 right?

18 A Correct.

19 Q And you were indicted, as we talked about, with Ronnie
20 Trucchio, right?

21 A That's correct.

22 Q A captain in the Gambino crime family, right?

23 A Yes.

24 Q Alite, Catalano, Scaglione, right? Right?

25 A Scag -- yeah, that's right.

1 Q And your co-conspirators, Kevin Bonner and Mike Malone,
2 testified against you, right?

3 A That's correct. Also, Patsy Adriano was indicted on that
4 case.

5 Q Carneglia wasn't indicted on that case, right?

6 A He was not.

7 Q And you went to trial on that case, right?

8 A I did go to trial.

9 Q And by the way, although you were initially remanded, did
10 you make bail in that case?

11 A I did.

12 Q And you made bail and you were out while your case was
13 being tried, right?

14 A Correct.

15 Q And you went to trial and you were convicted, right?

16 A That's correct.

17 Q And you went to trial, you were convicted and you were
18 remanded, right?

19 A Correct.

20 Q And you knew that you faced a zero to twenty count, zero
21 years to twenty years, right?

22 A Yes.

23 Q And you testified on direct examination that you actually
24 thought the court would sentence you somewhere between,
25 correct me if I'm wrong, ten and eleven years, right?

1 A That's what it came back at, yes, that's what the lawyer
2 said.

3 Q Pardon?

4 A That's what the lawyer said, Bjorn Brunvand.

5 Q Within two months of that conviction you elected to
6 cooperate, right?

7 A Yes, I elected to cooperate, I knew more stuff was coming
8 or I assumed. Nobody told me but it was a good guess.

9 Q And you met with prosecutors and, as you testified this
10 morning, both from Florida and the Eastern District, right?

11 A Yes.

12 Q And you were negotiating with both offices, right?

13 A I don't know about negotiating. Jay Trezevant handled it
14 and then New York came in and, you know, with the plea, the
15 cooperation, that's how it happened. I don't know about who
16 negotiated with what.

17 Q Well --

18 A There is no negotiation with the government.

19 Q Well, you hope to negotiate your plea in this matter;
20 you're not expecting a life sentence, are you, Mr. McMahon?

21 A I didn't negotiate the plea, I pled to everything they
22 asked me to plead guilty to. I'm not expecting a life
23 sentence, no.

24 Q You're hoping for a good 5K letter, right, Mr. McMahon?

25 A Correct.

1 Q And by the way, your relationship -- how do you say his
2 last name, Trevant, Tresant (ph)?

3 A Jay Trezevant.

4 Q Jay Trezevant, he's a U.S. Attorney in Florida, right?

5 A Yes.

6 Q And you gave Jay Trezevant little nicknames, right?

7 A Mr. Oppose and stuff like that, yeah.

8 Q When you say Mr. Oppose and stuff like that, you also
9 referred to him as Clark Kent, right?

10 A I believe he got new glasses and I wrote he looked like
11 Clark Kent, he did.

12 Q And you referred to Mr. Trevant (sic) also as Superman,
13 right?

14 A I don't -- I don't remember that but if I said, you know,
15 Clark Kent is Superman, I might have, I don't remember.

16 Q Would you like to see a copy of your letter where you --

17 A I'm taking your word.

18 Q Would you like to see a copy of your letter?

19 A I'm taking your word. Clark Kent is Superman, I probably
20 wrote it.

21 Q And you also referred to all of the prosecutors you were
22 working with when you wrote to this U.S. Attorney, right?

23 A Repeat that.

24 Q You developed little nicknames for all of the prosecutors
25 you were working with, right, Mr. McMahon?

1 A I don't remember that, all the prosecutors.

2 Q Pardon?

3 A I don't remember all the prosecutors. I mean Jay
4 Trezevant I knew I might have. You'd have to refresh my
5 memory.

6 Q Do you remember referring to all the prosecutors as Team
7 USA, Team America, that you're now working with Team America?

8 A I remember that correctly. Can I explain?

9 Q I'm sure Mr. Burlingame will ask you the appropriate
10 questions, Mr. McMahon.

11 A Thank you.

12 Q Now, you met -- you testified this morning that after
13 your conviction in Florida with Trucchio, a captain in the
14 Gambino crime family, that you met with prosecutors and agents
15 from many different agencies, right?

16 A That's what I testified to, yes.

17 Q And you were present with them while they took proffer
18 notes, right?

19 A Yes.

20 Q And when you met with them on these different dates, you
21 told Mr. Burlingame a little while ago that they controlled
22 the flow of the questions, right?

23 A I believe that's what I testified to, yeah. That's what
24 they said, I couldn't choose and pick the questions, yes.

25 Q But they would refer you to certain incidents, right, and

1 they would ask you questions about them, right?

2 A Yeah, that's fair.

3 Q And they would also refer back to things you had said at
4 prior sessions and question you further, right?

5 A I'm not sure I understand the question.

6 Q On the numerous dates, the 15 -- approximately 15 dates
7 that you've met with members from different law enforcement
8 agencies they asked you more than once about an event you were
9 providing them with information, right?

10 A Correct.

11 Q And at times they referred you back to a previous
12 statement you had made and asked you to clarify, right?

13 A It was pretty confusing, I'm not sure what to clarify,
14 they said clarify it.

15 Q Did you have more than one conversation about the JFK
16 robbery that resulted in the death of Mr. Delgado Rivera?

17 A Yes.

18 Q Now, you testified on direct examination that the agents
19 and the prosecutors were taking notes, right?

20 A Sometimes, yes, I did, yes, they did do that.

21 Q And you also wrote some letters or some correspondence to
22 AUSA Jay Trezevant, Clark Kent, concerning these proffer
23 sessions, right?

24 A I expressed things that I felt was a problem.

25 Q You expressed some of your worries and concerns, right?

1 A Not at all, it's just that I couldn't remember as deep as
2 they wanted me to remember.

3 Q Well, this writing that you wrote to AUSA Trezevant or
4 one of the writings that you wrote to him, that wasn't vetted
5 or reviewed by prosecutors before you mailed it, right?

6 A I think all mail was, it was -- what was the question
7 again?

8 Q You wrote it, you mailed it, right?

9 A Yes, but it's unsealed, I guess they have to open it and
10 read it.

11 Q Well, you know that the prison keeps a log of all
12 inmates' outgoing and incoming mail, right?

13 A I've heard that, yes.

14 Q And you told Mr. Trezevant that you had a poor memory and
15 that you were actually unable to recall detail, right?

16 A That's what I said, yes.

17 Q And you told him that you forgot the details of the Sears
18 robbery, right?

19 A That's correct.

20 Q And you told him that the JFK armored car robbery was
21 blurry in your mind, right?

22 A It happened very quick, yes, I wrote that.

23 Q No, you told AUSA Jay Trezevant that your memory of the
24 JFK armored car robbery was blurry?

25 A A blur I think was the word.

1 Q You told the Assistant U.S. Attorney that your memory of
2 that incident was blurry, right?

3 A That's what I said, a blur I think is what I said. I
4 couldn't remember who was standing what, who was -- what
5 glasses, what was on the radio, little certain things, little
6 minute things.

7 Q Mr. McMahon, when you wrote to AUSA Trezevant in Florida,
8 you told him that your memory of the JFK armored car robbery
9 was blurry, right?

10 MR. BURLINGAME: Objection, asked and answered.

11 A That's what I wrote.

12 Q And you also told him that you were worried that during
13 your proffer sessions you were mixing in accounts from TV
14 news, newspaper stories and Diane Sawyer's interview with
15 Sammy the Bull, right?

16 A I did. They clarified it.

17 Q When you wrote to AUSA Trezevant, you told AUSA Trezevant
18 that you were worried about your proffer sessions because when
19 you were giving information to law enforcement agents you in
20 fact were missing -- mixing in information that you got from
21 newspapers, TV news and Diane Sawyer's interview with Sammy
22 the Bull, right?

23 A Correct, and they put an end to it, they said just use
24 what you remembered and that's it.

25 Q And you also told AUSA Trezevant that you were concerned

1 about your ability to recall detail because you didn't want,
2 quote, Team USA mad at you, right?

3 A That's correct. They were getting frustrated with me.

4 MS. SHARKEY: Judge, I can go on or this is a good
5 time break.

6 THE COURT: If you'd like to break, we can break for
7 lunch. Be back please at 1:35.

8 (Jury leaves courtroom.)

9 THE COURT: Remove him please. Thank you.

10 (Witness steps down.)

11 (Time noted: 12:25 p.m.)

12 (Luncheon recess taken.)

13 (Continued on next page.)

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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (Time noted 1:35 p.m.)

3 THE COURT: Bring in the witness, please.

4 MS. SHARKEY: I would like to bring up something
5 with the Court before the witness is brought in.

6 Sorry.

7 THE COURT: Bring in the witness and the defendant.

8 Yes. You have an application?

9 MS. SHARKEY: Yes. I wanted to alert the Court and
10 I alerted the prosecution that I was going to cross the
11 witness on the fact that his family is not in witness security
12 and is, in fact, living openly in the community. I don't feel
13 the necessity to name the community, but I did bring that up.
14 If I could have this conversation without the witness present.

15 THE COURT: The witness is present. You can do what
16 you want.

17 MS. SHARKEY: And I --

18 THE COURT: I believe that it is a cruel thing to
19 do, but you are entitled to do it in defense of your client.

20 MS. SHARKEY: Judge, respectfully, when the Court
21 says the it's a cruel thing to do --

22 THE COURT: I believe that it is cruel and places
23 them at great risk. I believe that the advantage to the
24 defendant of pursuing this line is minimal to a vanishing
25 point. You are free to proceed if you wish.

1 Bring in the witness.

2 MS. SHARKEY: But I would like -- if I might, Judge,
3 I would like the Court to know that the information -- and I
4 have asked that the prosecutor if the information is wrong to
5 inform me of this. I am not going to name the community, but
6 my information is the witness's wife is living openly in the
7 community. And the witness's testimony that they're in grave
8 danger is, in fact, not true.

9 THE COURT: Bring in the witness.

10 You have my ruling.

11 Bring in the jury.

12 (Whereupon, the Witness enters the courtroom at
13 1:40 p.m.)

14 (Whereupon, the jury enters the courtroom at
15 1:45 p.m.)

16 THE COURT: Please be seated.

17 Proceed.

18 CONTINUED CROSS-EXAMINATION

19 BY MS. SHARKEY:

20 Q Mr. McMahon, before we broke for lunch I questioned you
21 about your letter to Mr. Trezevant, the U.S. Attorney in
22 Florida, where you told him that during your proffer session
23 you were mixing in information from TV news, newspaper
24 stories, and Diane Sawyer interviews; is that correct?

25 A Correct.

1 Q And you remember telling him that; is that right?

2 A That sounds about right.

3 Q Would a copy of your letter refresh your recollection as
4 to whether or not you told that to Mr. Trezevant, the
5 Assistant U.S. Attorney?

6 A Sure.

7 MS. SHARKEY: Refreshing the witness's recollection,
8 3500 KM 32.

9 BY MS. SHARKEY:

10 Q I ask you that you read the middle paragraph,
11 Paragraph 2, to see if that refreshes your recollection as
12 to your letter to the U.S. Attorney.

13 (Handing to the witness.)

14 THE WITNESS: Correct.

15 BY MS. SHARKEY:

16 Q Is your memory refreshed?

17 A I think I testified to that.

18 Q Is your memory refreshed, Mr. McMahon?

19 A Yes.

20 Q And didn't you tell the U.S. Attorney in Florida in
21 September of 2007 that you were mixing in information from
22 news reports, TV news, newspapers, and Diane Sawyer's
23 interview?

24 Is that right?

25 A Yes.

1 Q And that would also include information from when you
2 were out of jail from Gangland; is that correct?

3 A Correct.

4 Q Now, you testified yesterday to a series of conversations
5 that you say happened between you and Charles Carneglia; is
6 that right?

7 A Correct.

8 Q And the last conversation that you say you had with
9 Charles Carneglia -- and correct me if I am wrong -- was when
10 you were incarcerated at the Nassau County Jail; is that
11 right?

12 A I don't believe that is correct. I think today I
13 testified that the last time I seen him when he was screaming
14 about giving him a letter. I might have said that yesterday,
15 but today I testified -- I didn't change it. I just
16 remembered another event when I seen him last.

17 Q Your memory changes as the days go by; is that right?

18 A I don't think so. It stays the same.

19 Q Well, when you told AUSA Trezevant that you had trouble
20 remembering details, that would be accurate; is that right?

21 A Yes.

22 Q And you had trouble remembering events; is that right?

23 A Yes.

24 Q And, in fact, your testimony or your recounting of events
25 has changed over time; is that right, Mr. McMahon?

1 A No, it has not.

2 Q Well, Mr. McMahon you testify at this trial that you were
3 present for the murder of Louis DiBono inside the World Trade
4 Center garage in October of 1990; is that right?

5 A That is correct.

6 Q And you say now and you told the prosecutors during the
7 course of your proffering that you were present with Charles
8 Carneglia and Bobby Boriello for this murder; is that right?

9 A Wrong.

10 Q You never told the prosecutors prior to today that you
11 were present in the World Trade Center garage?

12 Yes or no?

13 A I did not.

14 Q Today is absolutely the first time that you are telling
15 anybody that you were present for the murder of Bobby -- I am
16 sorry. I was using the wrong term.

17 DiBono?

18 A I just told him who was there. I didn't just say Charles
19 and Bobby. I said me, Charles, Bobby, and Harpo.

20 Q And when I said Boriello I misspoke.

21 You told prosecutors prior to today that you were
22 present at the World Trade Center garage with others when
23 Mr. DiBono was killed; is that correct?

24 A Yes.

25 Q And you told prosecutors at this trial and this jury that

1 yourself, Bobby Boriello, Charles Carneglia, and someone named
2 Harpo were present; is that correct?

3 A That is correct.

4 Q And Bobby Boriello was a captain in the Gambino crime
5 family; is that correct?

6 A I believe he was a made man.

7 Q Well, Bobby Boriello was John Gotti Sr.'s, driver; is
8 that correct?

9 A That is correct.

10 Q John Gotti, Sr.'s, right-hand man; is that right?

11 A Wrong.

12 Q Well, when you said correct that Bobby Boriello was
13 John Gotti, Sr.'s, driver he was the individual who took
14 John Gotti everywhere; is that right?

15 A Pretty much, yes.

16 Q And it would be accurate to say that the Gottis hated
17 you; is that right?

18 A It depends at what time -- what time frame.

19 Q Well, it would be accurate to say that when Frank Gotti,
20 Jr., was killed on your dirt bike, the Gottis held you
21 complicit -- if not responsible, complicit in his death; is
22 that correct?

23 A That is fair to say.

24 Q And you were, what, 15 in 1980, or 14?

25 A 14.

1 Q And, in fact, an individual had you sign a piece of paper
2 that it was actually your dirt bike and not your friend
3 Pellegrino's dirt bike; correct?

4 A No. What happened was after Frank Gotti got killed, a
5 guy, Joseph Pellegrino, came by with his father and made me
6 sign it. He was worried about getting sued. I was 14 years
7 old; so I signed it. It wasn't -- I didn't own the dirt bike.
8 I didn't pay for it, but that is how it happened.

9 Q Well, you knew that the Gottis and others thought that it
10 was partly your fault; is that right?

11 A I don't know if they thought it was my fault. They
12 thought it was my dirt bike.

13 Q And the Gottis hate you; is that correct?

14 A I don't know that. I know they were not fond of me.
15 Hate, I don't know. If they hated me, I guess I wouldn't be
16 here.

17 Q Did you tell the prosecutors on January 12 of 2007 that
18 the Gottis hated you?

19 A I don't remember that -- saying that.

20 Q Okay. If I showed you a copy of the notes from your
21 interview on January 12, would that refresh your recollection?

22 A It would not.

23 Q You never remembered telling the Government, the
24 prosecutors in this case, that the Gottis hated you?

25 A I never told them that. I said they were not fond of me.

1 If you want to write hate, you can write hate.

2 Q If I showed you a copy of the notes, would it refresh
3 your recollection?

4 A Unless I wrote the notes, I am not interested in seeing
5 them.

6 Q Well, you testified earlier this morning that John Gotti,
7 Jr., shot you in the leg with an M-16; is that right?

8 A That is correct.

9 Q And you told the prosecutors this morning that everybody
10 was talking about it and that it was on purpose, but you
11 thought it was an accident; is that right?

12 A That is what I thought.

13 Q John Gotti, Jr., hated you; is that right?

14 A John Gotti, Jr., did hate me.

15 Q John Gotti, Jr., held you responsible for the death of
16 his brother Frank; is that right?

17 A No. He thought that as we were younger, and then he
18 hated me because I was closer with his father.

19 Q Now, it is your testimony before this jury that
20 John Gotti, Jr., was jealous of your relationship with
21 John Gotti, Sr.?

22 A I am not saying jealous. He couldn't boss me around or
23 anything because I hung out with his father, like he did to
24 other kids in the neighborhood.

25 Q Now, do you have any pictures of you with John Gotti,

1 Sr.?

2 A No.

3 Q Do you have any pictures or photographs of you with
4 John Gotti, Sr., as his lucky charm at the poker games?

5 A No, I do not. I don't think that you could take pictures
6 at the club.

7 Q How about on the booth? Do you have any photographs of
8 that?

9 A No, I do not. But people are well aware of it.

10 Q Mr. McMahon, it is your testimony in front of this jury
11 that John Gotti, Sr., held you as a good luck charm, an
12 individual who gave his beloved son a dirt bike and was killed
13 on it, and he referred to you as his good luck charm?

14 A He wanted me to stay on Sunday nights when he played
15 cards. That's what he said. He said I brought him luck.
16 I guess, yes, that is what I am testifying to.

17 Q And you are the individual that had his -- that had given
18 his son the dirt bike on which he was killed; is that right?

19 A I got off of the bike and he jumped on it. I didn't give
20 it to him. I parked it and he jumped on it.

21 Q A couple of minutes ago you agreed with me when I said
22 that the Gottis held you complicit in the murder -- or in the
23 death -- withdrawn.

24 In the death of Frank Gotti; right?

25 A That is correct. If I was driving the bike -- I parked

1 it. If I wouldn't have gotten off of the bike he would still
2 be alive.

3 Q And Gotti, Jr., shot you were an M-16; is that right?

4 A That is correct.

5 Q And you said that other people were talking about it
6 being on purpose; is that right?

7 A That is what I was told.

8 Q Pretty much by everybody that you knew; is that right?
9 You were the only one who thought it was an accident; is that
10 right?

11 A I was the only one there to see it jammed. And him
12 telling me, you know, "I go to military school. I know how to
13 work this," and boom it went off.

14 Q So this is one of the incidents that you are the only
15 witness to; is that right?

16 A Yes.

17 Q Right.

18 And that happens a lot during the course of your
19 life and your testimony at this trial; right, Mr. McMahon?

20 A Yes.

21 Q And, in fact, Mr. McMahon, yesterday you testified about
22 a number of conversations that you had with Charles Carneglia,
23 and the only persons present were you and Carneglia; is that
24 right?

25 A That is correct.

1 Q And when you say that you were at the Nassau County Jail
2 and you say that Charles Carneglia said, "If you rat on me on
3 DiBono, I will tell the Government about the JFK, the lawyer,
4 unexplainably, wasn't there; right?

5 A That is correct.

6 Q So there are no witnesses to that conversation; is that
7 right?

8 A Yes.

9 Q Just your word; is that right?

10 A That is correct.

11 Q Someone who just testified this morning lied every day in
12 your life of crime; right?

13 A Correct.

14 Q And, by the way, Mr. McMahon, the conversation that you
15 say happened with Charles Carneglia concerning advanced
16 forensic techniques in DNA and fingerprinting, nobody else was
17 present during that purported conversation; right,
18 Mr. McMahon?

19 A Correct.

20 Q So you, the lifelong liar, are the only one present
21 during that conversation.

22 No witnesses; is that right?

23 A Correct.

24 Q You're working really hard for that 5K letter, aren't
25 you, Mr. McMahon?

1 A I am not. All that I have to do is tell the truth.

2 Q Now, when you say all that you have to do is tell the
3 truth, you told the Government, the prosecutors, that your
4 proffer sessions were riddled with accounts from the
5 newspaper; right?

6 Right?

7 A Correct.

8 Q That was in September of '07; is that right?

9 A That is correct.

10 Q You didn't mean to rip up your cooperation agreement;
11 right?

12 A Correct.

13 Q You had signed that cooperation agreement in April of
14 '07; is that right?

15 A Yes.

16 Q And when you told them that what you had been telling
17 them was polluted by all of the news accounts that you had
18 read and researched, nobody took that cooperation agreement
19 and tossed it into the garbage; is that right?

20 A That is correct.

21 Q They kept right on going with you; is that right?

22 A Correct.

23 Q And all of these conversation that you say that you had
24 with Charles Carneglia, there was no other witness besides
25 you; is that right?

1 A Right.

2 Q Now, you say that you had a conversation with Charles
3 Carneglia after he attended a wedding with John Gotti, Jr.,
4 decades -- decades after the death or murder of Sal Puma; is
5 that right?

6 A I don't believe that I testified. I went to the wedding.
7 Charles went to the wedding and told me what happened.

8 Q And the conversation that you say happened between you
9 and Charles Carneglia concerning the murder of Sal Puma, you
10 were the only one present during this conversation with
11 Carneglia; is that right?

12 A That is correct, but there was a table full of people
13 that they said it in front of.

14 Q When Mr. Carneglia -- when you testified yesterday that
15 you had a conversation with Mr. Carneglia about the death of
16 Sal Puma, that was between you and Mr. Carneglia, according to
17 your testimony; right?

18 A Correct.

19 Q Yet again, no witnesses to this purported event; is that
20 right?

21 A Correct.

22 Q And it is your testimony that even though the whole world
23 thought that Gotti, Jr., shot you in the leg on purpose, you
24 know the truth.

25 You know it was an accident; is that right?

1 A That is correct.

2 Q Now, even though the Gotti family held you complicit --

3 A What is complicit? Do you mean responsible?

4 Q Yes.

5 Even though the Gotti family held you partly
6 responsible for the death of Frank Gotti, it is your testimony
7 that Bobby Boriello selected you to go on this murder of
8 DiBono; is that right?

9 A Wrong.

10 Q Well, you testified on direct with Mr. Burlingame that
11 you went to the World Trade Center with Charles Carneglia,
12 Harpo, and Bobby Boriello was in another car; is that right?

13 A Correct.

14 Q Oh, by the way, Bobby Boriello is dead; right?

15 A Yes.

16 Q He had been murdered in '91; is that right?

17 A Yes, I think so. That is the date on the card, I think.

18 Q And you testified yesterday on direct that you engineered
19 or obtained the different cars that were used during the
20 course of this surveillance; is that right?

21 A That is correct.

22 Q And you testified yesterday on direct examination that
23 you, the individual who the Gotti family believed was
24 complicit in the murder of their -- in the death of their son,
25 and Charles Carneglia with the individuals who went to the

1 World Trade Center and killed DiBono; is that right?

2 A Correct.

3 Q Charles Carneglia, who you described as someone who was
4 a drunk and couldn't get out of his own way --

5 Is that right?

6 A He could get out of his own way.

7 Q Did you tell Agent Vandette in June of 1995 that Charles
8 Carneglia was a drunk who couldn't get out of his own way?

9 A I think I told that to Vandette. I lied to him and said
10 stuff to make Charles look better.

11 Q So you were --

12 A I told him there was no mob too, but obviously there is.

13 Q Mr. McMahon, in 1995 you told Vandette that -- that
14 Charles Carneglia was a drunk who couldn't get out of his own
15 way.

16 Yes or no?

17 A I did.

18 Q And you constantly refer to Mr. Carneglia during the
19 course of this trial as someone who you babysat; is that
20 right?

21 A That is correct.

22 Q A drunk; right?

23 A Yes.

24 Q A drug user; is that right?

25 A Yes.

1 Q He was no John Carneglia; is that right?

2 A Not even close.

3 Q And it would be accurate to say that not only did you say
4 it at this trial that Charles Carneglia was a drunk, you also
5 said that to other individuals in your crowd before you went
6 to jail in 2002; is that right?

7 A I believe that I did, yes.

8 Q And you also told other individuals, particularly
9 Mr. DeConza, that you baby sat Charles for the last 11 years
10 after his brother John went to jail; that is right?

11 A That's correct.

12 Q And, in fact, when John Carneglia went to jail in 1989,
13 he asked you to take care of his brother; is that right?

14 A And look out for him. He didn't say take care. He said
15 to keep an eye on my brother.

16 Q John Carneglia asked you to take care of his brother
17 because Charles Carneglia was a drunk; is that right?

18 A That is correct.

19 Q A drug user; right?

20 A Everything under the sun, yes.

21 Q Somebody who you characterized as couldn't get out of his
22 own way when you spoke with Agent Vandette; is that right?

23 A That is what I said to Agent Vandette; that is correct.

24 Q Someone who you babysat for eleven years; is that right?

25 A Correct.

1 Q Pardon?

2 A Correct.

3 Q And it is your testimony that you were present when
4 Charles Carneglia -- Boriello is not available, is that right,
5 because of his death?

6 A Is that my fault?

7 Q Mr. McMahon, can you answer the question?

8 A I did.

9 Q It is your testimony, Mr. McMahon, that Boriello, who is
10 dead, you, and Charles Carneglia and Harpo were present for
11 the murder -- participated in the murder of Louis DiBono; is
12 that right?

13 A That is what I said.

14 Q Right?

15 The guy who picked the hit team up, the guy who is
16 complicit for their son's murder, and the drunk to carry out
17 this murder.

18 That is what you are telling this jury, Mr. McMahon?

19 A I am not telling the jury that the Gottis did anything.
20 I never said that.

21 Q Boriello was Gotti's driver; is that right?

22 A Correct.

23 Q Now, yesterday you said that after the murder of DiBono
24 Bobby Boriello told you not to say anything; that nobody knows
25 that you are here; is that right?

1 That was your testimony yesterday; is that right?

2 A That is what he told me, yes. That is my testimony.

3 Q You remember that from yesterday; right?

4 A Yes. Outside Charles mother's house, yes.

5 Q Now, on January 12th of 2007 you told prosecutors that
6 Charles Carneglia threatened you not to talk about it because
7 you left the hat at a scene and it could be traced back to
8 you; right?

9 A Wrong.

10 Q Didn't you tell the prosecutors on January 12th of 2007
11 that you left a hat at the scene of the World Trade Center
12 when DiBono was killed?

13 Yes or no?

14 A No, I didn't.

15 Q Did you -- has the Government ever asked you about that?

16 A Yes -- they asked me about what?

17 Q Has the Government ever spoken to you about your comments
18 that you left a hat at the World Trade Center when DiBono was
19 murdered?

20 A They never asked me that, no.

21 Q You know, Mr. McMahon, that when you spoke with agents on
22 January 12th of 2007, the first time that you spoke with
23 agents you told the agents that you left a hat at the World
24 Trade Center; is that right?

25 A Wrong. I told them I left a hat at JFK.

1 Q Did you -- and you testified that you wrote to
2 Mr. Trezevant that the proffer notes were all mixed up with TV
3 accounts, online accounts, newspaper accounts of what you read
4 in the papers; right?

5 A I am not sure that is exactly what was said about the
6 proffers being mixed up with TV. I said I am taking -- that I
7 remember some things from TV, like the hat I don't remember
8 dropping but then I seen it on TV. I still don't know to this
9 day if I dropped it.

10 Q All right.

11 A But I had seen the hat at -- on the TV, yes.

12 Q On January 12th in 2007 in Tampa, Florida, when
13 AUSA Trezevant, AUSA Hormozi, AUSA Lipton, and Special Agent
14 DiGregorio, Special Agent Conrad, NYPD Detective Steve Kaplan,
15 NYPD Detective James DiSorrio, and your attorneys
16 Bjorn Brunvand and Stuart Grossman, didn't you tell the
17 government that Charles Carneglia threatened you not to talk
18 about DiBono's murder because a hat was left behind and it
19 could be traced back to McMahon?

20 Didn't you say that on January 12th?

21 A No.

22 Q Would a copy of the notes of your conversation refresh
23 your recollection about that?

24 A It could not refresh my memory because I didn't write it
25 and they made mistakes.

1 Q Oh, so the Government made mistakes, huh?

2 A That is what I wrote in the letter, yes.

3 Q So you are saying now that any inconsistencies in your
4 statement is the Government's fault?

5 Is that your testimony Mr. McMahon? Yes or no?

6 A I am not blaming anybody. I talk fast, and he wrote he
7 wrong. There is nothing I can do about it. I brought that to
8 their attention.

9 Q And you brought that to their attention because you knew
10 in the proffer notes from January 12th of 2007 that it
11 reflected that you told the agents that you left a hat at the
12 World Trade Center; right?

13 A That is not correct. My lawyer hadn't even -- when we
14 went to another proffer session he wrote something down and we
15 had argument. That is not what I got; that is not what he go.
16 So one agent who wrote something down had mixed it up, and the
17 whole table corrected him.

18 Q So you went over to a different agent's proffer notes
19 during the session?

20 A No. I was telling a story of how it all happened, and
21 I got something different. And then the lawyer says, "Well,
22 that is not what he said the last time," and the prosecutor
23 said, "That is not what he said the last time."

24 Q So the proffer notes throughout the month, throughout the
25 15 different sessions, were reviewed with you and your counsel

1 each time?

2 A They were not.

3 Q So it is your testimony that the only time that the
4 proffer notes were reviewed with you --

5 A They were never reviewed.

6 Q Well, you were aware of what was written in the proffer
7 notes, weren't you, Mr. McMahon?

8 A I was not. The agent was talking. I got something
9 different. Didn't he say this the last time? And the lawyer
10 and the other 15 people at the table, I think it was the
11 second proffer, said, "No. We got the same thing that he
12 said." So it was one.

13 Q So, Mr. McMahon, as you go through the proffer sessions,
14 the agents go through what you said on the prior occasions?

15 A One time it happened.

16 Q Pardon?

17 A One time it happened.

18 Q And the one time it happened was your first time; is that
19 right?

20 A Wrong.

21 Q Your initial voice on January 12th of 2007; is that
22 right, Mr. McMahon?

23 A That is not correct.

24 Q Mr. McMahon, on January 12th of 2007, isn't it accurate
25 that you told the agents that you had left your hat in the

1 garage at the World Trade Center when Mr. DiBono was murdered?

2 Is that right?

3 A Wrong.

4 Q Well, you know that that is what was written down; is
5 that right?

6 A I do not know what was written down.

7 Q Well, you had a conversation about that the next time
8 that you had a meeting; right?

9 A Wrong. It was about Iggy's keys; whether I gave Iggy
10 keys or not.

11 Q Mr. McMahon, let me show you a copy.

12 A Of what?

13 Q The notes -- the typed notes of your proffer session on
14 January 12th of 2007.

15 A I am not interested in seeing them. I didn't write them;
16 so showing me does no good. It is not what I said. I know
17 what I said.

18 Q So it is your testimony in front of this jury that that
19 particular fact the agent got wrong; is that correct?

20 A That is correct.

21 Q Now, you testified yesterday that Bobby Boriello told you
22 not to say anything because nobody knows that you are here; is
23 that right?

24 A Correct.

25 Q When you testified yesterday, you testified that after

1 you came back to Charles Carneglia's house --

2 A Mother's house.

3 Q -- John Gotti, Jr., was there; right?

4 A I didn't testify as we were walking back from the garage
5 after dropping the gun off in the box, John, Jr., was standing
6 in front of the house and going into the house.

7 Q And you saw John, Jr.; is that right?

8 A Yes. But I didn't let him see me or I walked across the
9 street. I don't remember exactly how it happened.

10 Q Well, how do you know that he didn't see you,
11 Mr. McMahon?

12 A I don't know.

13 Q Is it your testimony today that you hid from John, Jr.?

14 A I walked across the street. He walked in the house. We
15 went separate ways.

16 Q You testified yesterday under oath when Mr. Burlingame
17 was asking you questions that after you dropped off this gun
18 you went back to Charles Carneglia's mother's house, and
19 outside Charles Carneglia's mother's house was John Gotti,
20 Jr.; is that right?

21 A John -- that is what I testified. As I was walking back,
22 John Gotti, Jr., was entering into the house or standing in
23 front of it, yes.

24 Q Now, you also testified yesterday about the murder of
25 Mr. Delgado Rivera; is that right?

1 A That is correct.

2 Q And Mr. Delgado Rivera was an armored car driver; is that
3 correct?

4 A Correct.

5 Q And you testified yesterday that prior to the day on
6 which Mr. Delgado Rivera was murdered that you and others had
7 made somewhere between 10 and 30 attempts to rob this same
8 armored car vehicle?

9 A That is what I testified to.

10 Q How many times did you attempt -- do you say that you
11 attempted to pick the lock on that vehicle prior to the day on
12 which Mr. Delgado Rivera was murdered?

13 A I think I testified to ten.

14 Q You also --

15 A It was a lot.

16 Q Ten times?

17 A That is correct.

18 Q What implement -- what sort of a tool did you use to pick
19 the lock?

20 A A picking gun.

21 Q When you say "a picking gun," tell the members of the
22 jury what is that?

23 A It has ridges on it and you squeeze it and it goes up and
24 down. And you stick another piece of metal in it and you turn
25 it, and as the pressure goes on it turns the tumblers and

1 turns the locks.

2 Q And you also testified that on one occasion you actually
3 jumped on top of the armored car and videotaped it?

4 A I did do that, yes.

5 Q And you did this 10 to 30 times?

6 A Jumped on the car and video'd it?

7 Q You attempted rob the vehicle 10 to 30 times?

8 A Maybe it's eight, but it's lot of times. I can't be
9 exact and precise of numbers.

10 Q You mean it is 8 to 30 times?

11 A No. It could be 10 times each occasion, which would make
12 it 24. I mean, yeah. Eight, and that would make it 21. I am
13 not exactly sure, but it is a lot -- a lot of times, yes.

14 Q And the same armored car?

15 A Correct.

16 Q The same individuals in the armored car?

17 A Was it the same individuals in the armored car?

18 Q Yes.

19 A You mean the drivers?

20 Q Yes.

21 A I think they changed in between.

22 Q And no one ever detected your presence?

23 A No.

24 Q When you were on top of the car you say videotaping it,
25 no one detected your presence?

1 A I guess not. I was at LaGuardia. I jumped on it, shined
2 a light on it, and video'd it and left.

3 Q Where is the videotape now?

4 A I destroyed it.

5 Q Oh.

6 Now, now wrote to AUSA Trezevant that the JFK
7 armored car robbery was blurry in your mind; right?

8 A I wrote that, yes.

9 Q And in January of 2007 you told prosecutors that on the
10 date that the armored car driver was killed you, Frankie Lap,
11 Peter Zuccaro, and Charles Carneglia were present; right?

12 A The day that the armored car driver was killed?

13 Q Yes.

14 A Wrong.

15 Q Do you remember meeting with prosecutors?

16 A I remember meeting with prosecutors, yes. And I know
17 exactly what I said. I no way said that.

18 (Matter continued on the next page.)
19
20
21
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25

1 CONTINUED CROSS EXAMINATION

2 BY MS. SHARKEY:

3 Q Mr. McMahon, would a copy of the statement of the agents
4 refresh your recollection?

5 A It would not because I didn't say it. It can't refresh
6 something I didn't say.

7 Q Mr. McMahon, when you met with prosecutors on February
8 22nd of 2007 you spoke about and were questioned about the JFK
9 robbery that resulted in the death of Mr. Delgado-Rivera,
10 right?

11 A Correct.

12 Q On February 22nd of 2007, didn't you tell the
13 prosecutors -- and this conversation occurred in Tampa,
14 Florida. Didn't you tell the prosecutors that you met up with
15 Peter Zuccaro, Frank Lap, Tex, Michael Finnerty, Charles
16 Carneglia and Borriello?

17 A I did not.

18 Q Mr. McMahon, would a copy of your notes from that date --

19 A It would not.

20 Q -- refresh your recollection?

21 A It would not.

22 Q Mr. McMahon, you know full well that the prosecutors and
23 the agents recorded that statement in what's called a 302,
24 right?

25 A Correct.

1 Q And now it's your testimony, in front of this jury, that
2 yet again the agents got it wrong. Is that your testimony?

3 A I didn't say that they got it wrong. I said I didn't say
4 that.

5 Q Did you have a twin brother next to you during this
6 proffer session, Mr. McMahon?

7 A No, I did not.

8 Q You talked about living in the Greentree condominium
9 complex, right?

10 A Correct.

11 Q You talked about how at one point -- well, what were the
12 years that you lived there? If you remember today?

13 A '91 to '99.

14 Q You talked about seeking to sell your condo, right?

15 A I didn't seek to sell it. I had found a buyer.

16 Q Pardon?

17 A I found a buyer.

18 Q You testified about listening to conversations within the
19 complex on your scanner, right?

20 A I testified to that, yes.

21 Q Was that something that you did normally? Did you
22 normally turn on the scanner and listen to what your neighbors
23 were saying and doing?

24 A I listened to various things; cell phones, cops. Yes, I
25 did listen to it. Yes.

1 Q You're kind of an equipment guy, right?

2 A Yes.

3 Q Walkie Talkies, right?

4 You have to answer for the record. Walkie Talkies,
5 right?

6 A Correct. Scanners.

7 Q You carried Walkies Talkies, right?

8 Yes?

9 A Yes.

10 Q Scanners?

11 A Yes.

12 Q Cell phones, right?

13 A Yes.

14 Q You also gave John Alite the Uzi machine gun and a
15 pistol, right?

16 A I don't remember which way it went, if I gave or
17 received.

18 Q Now, how often would you turn on the scanner to find out
19 what was going on in your neighbor's homes, every day?

20 A I was nosy. Yes, everyday.

21 Q When did you first get a scanner, Mr. McMahon?

22 A Too far to remember. They used to come with crystals. I
23 used to punch in -- they used to sell scanners that you had to
24 buy a crystal chip. Then as technology advanced, you could
25 punch in the numbers. So I pretty much always had a scanner,

1 a cop scanner.

2 Q When you say pretty much always had a cop scanner, did
3 you get the first one when you were 13, 14, 15?

4 A Probably.

5 Q You used the scanner not only to listen to law
6 enforcement, but also to listen to conversations of a personal
7 nature on your neighbors, right?

8 A Correct. So did other people.

9 Q You always had your ear to the ground for whatever was
10 going on, right?

11 A I can't say yes to that.

12 Q You categorized yourself here, Mr. McMahon, as Mr. Nosy,
13 right?

14 A Yes, but I can't say that I know everything that's going
15 on.

16 Q Now, how did you get information when you were
17 incarcerated? How were you able to do that without a police
18 scanner? How were you able to keep up on gossip, Mr. McMahon?

19 A I didn't know I was keeping up on gossip.

20 Q Well, did you keep your ear to the ground, were you
21 Mr. Nosy when you were incarcerated?

22 A Depends what was going on. If it was my case, I kept my
23 ears open, as far as lawyers and stuff.

24 Q Did you have people on the outside providing information
25 for you?

1 A When? When -- when -- what part of time?

2 Q When you were in Nassau?

3 A When I was in Nassau? After Charles found out I wasn't
4 cooperating, Allen Meshanski came and visited me.

5 Q Allen Meshanski was also your friend until you had a
6 falling out, is that right?

7 A That's correct.

8 Q Did you deal drugs with Allen Meshanski?

9 A I don't remember if I dealt drugs with Allen Meshanski.

10 Q How many decades did you deal drugs?

11 A I wasn't good at it. I didn't do that good at it.

12 Q How many decades did you deal drugs, Mr. McMahon?

13 A One decade. Probably a year span. So I can't say it a
14 year of dealing drugs.

15 Q You sold pounds of marijuana.

16 A If I sold 100 pounds my whole life that was a lot. If I
17 sold a hundred pound or 50 pounds, that was a lot.

18 Q You sold --

19 A A pound here, a pound there, I wasn't that popular. It's
20 not that I didn't want to be, I just wasn't good at it.

21 Q Who did you get the marijuana from?

22 A Different individuals.

23 Q Let's try a name. Can you tell the members of the jury
24 one name?

25 A Billy Caso.

1 Q You sold to Michael Malone, right?

2 A Correct.

3 Q You sold to Kevin Bonner?

4 A I don't remember that.

5 Q You sold to Carl Klein, right?

6 A I gave Carl Klein pot, yes.

7 Q You sold pot to Carl Klein?

8 A Yes.

9 Q You sold cocaine to Carl Klein, too, right?

10 A I don't remember that. I might have. I'm not going to
11 deny it, I might have.

12 Q Mr. McMahon, you testified on direct examination that you
13 had a number of brush-ups with the cops, right?

14 A I did, yes.

15 Q In fact, when they came to arrest you, when agents came
16 to arrest you in 2000 you ran away, right?

17 A That's partly true, but I have to explain that.

18 Q Did you run away, yes or no, Mr. McMahon?

19 A I'd like to explain the whole story. It's not a yes or
20 no answer.

21 Q Mr. McMahon, I'm sure Mr. Burlingame will have an
22 opportunity to ask you questions.

23 A I don't think he ever asked me about it.

24 Q Mr. McMahon, you testified on direct examination, when
25 Burlingame was asking you questions, that you ran away from

1 agents when they came to arrest. Do you remember that
2 testimony?

3 A I didn't have the knowledge --

4 Q Yes or no?

5 A I didn't have the knowledge of them arresting me. They
6 just came by the house. And yes, I did run away.

7 Q So it's your testimony this afternoon --

8 A It didn't change. He just didn't ask the question.

9 THE COURT: Don't interrupt the question.

10 BY MS. SHARKEY:

11 Q It's your testimony this afternoon that when the agents
12 came to your house you just happened to run away, right?

13 A That's not the testimony. Can I explain it?

14 Q When the agents came to your house, Mr. McMahon --

15 A Can I explain it, yes or no?

16 Q Mr. McMahon, when the agents came to your house in 2000
17 to arrest you, did you run away, yes or no?

18 A I'm going to tell you the story. I put the cameras on --

19 Q Mr. McMahon, if you tried to answer a question --

20 A I have to tell the story.

21 Q -- we might get through this today.

22 MR. BURLINGAME: Objection, Judge.

23 THE COURT: You can answer yes, no or I can't answer
24 in that form.

25 THE WITNESS: I can't answer it in that form, Your

1 Honor.

2 THE COURT: All right.

3 BY MS. SHARKEY:

4 Q When Mr. Burlingame asked you the question this morning
5 you could give a yes or answer, right?

6 A It is a yes, but there was a reason. You said arrested.
7 I didn't know I was getting arrested. I turned on all my
8 surveillance cameras. I seen a bunch of people starting to
9 surround the house, floating around, so I left.

10 Because they didn't -- the week before that they
11 were looking to talk to me. They said well, we want you to
12 cooperate. We want to talk to you. I said I have nothing to
13 say to you. And they went to my condo, not even to the house
14 in Howard Beach. So they surrounded the condo saying they
15 wanted to talk to me, but I didn't live there.

16 So I had the agent on the phone, Agent Haggerty. He
17 said I want to talk to you. You're getting arrested for an
18 extortion case, do you want to cooperate and help yourself. I
19 said I'm not interested. He said well, I want to talk to you.
20 I said I don't have to talk to you. Gino's sending a fax to
21 the FBI, a letter saying that if you want to arrest my client,
22 we'll self surrender.

23 Then what happened is they finally found out that I
24 don't live in the condo no more. They started coming around
25 the house. I seen them. So I didn't want to talk to them and

1 I went to work. So, yes did I run away from the cops. Did I
2 know I was getting arrested, no.

3 Q Ms. McMahon, how many times did you practice your
4 testimony with Mr. Burlingame?

5 A There was no practice. He asked me questions and I
6 answered them. It was a couple of days.

7 Q A couple of days worth, right?

8 A A couple of days, yes.

9 Q Mr. McMahon, how many surveillance cameras did you have
10 at the house?

11 A One, two, three, four, five. Five.

12 Q Five surveillance cameras?

13 A Yes.

14 Q How many surveillance cameras did you have at the condo?

15 A One -- oh, two. No. One in the front and one in the
16 back.

17 Q Now, you testified that you also stole from the cops,
18 right?

19 A Yes, I did.

20 Q You told that to Mr. Burlingame, right?

21 A Yes, I did.

22 Q You testified that the first time you actually stole a
23 car from the precinct. Was that right?

24 A That's exactly what I testified to, yes.

25 Q And was that a car you had previous stolen that the

1 police picked up or did you just like that car at the police
2 station parking lot and decided to take it?

3 A The -- I stole the car. A guy was -- I sold it to a guy.
4 I picked up cars and sold it to it people that wanted it. He
5 jumped in the car and the cops picked him up and arrested him,
6 and I went and stole it back.

7 Q Out of the precinct parking lot?

8 A No. This is parked by the 106 Precinct. It's Liberty
9 Avenue, just parked in the street. They didn't impound it.

10 Q In front of the precinct, right?

11 A Down the block on Liberty Avenue.

12 Q Did you sell that car again?

13 A Did I sell it again?

14 Q Yes.

15 A No. I destroyed it.

16 Q Now, the reason you destroyed it was you didn't want your
17 fingerprints on the car, is that right?

18 A They had arrested a suspect already. I wasn't worried
19 about it.

20 Q Well, you said you destroyed it. Did you set it on fire?

21 A No. I gave it to somebody to chop up.

22 Q Why did you have it destroyed?

23 A To help my friend out.

24 Q You also cut the fence at the impound lot in Nassau
25 County?

1 A That's correct.

2 Q That was to help your friend out, too?

3 A That was. I didn't have a case in Nassau, yes.

4 Q What friend?

5 A Frankie Lap.

6 Q What friend were you helping out when you had that
7 previous car chopped up?

8 A Frankie Pagenti.

9 Q You stole the car from the impound lot and you returned
10 it to Mr. Lap?

11 A No. We weren't successful at it. We got caught in the
12 middle and ran away.

13 Q You also went into the police garage, right?

14 A I did.

15 Q When was that?

16 A When the car got impounded. I'm not sure exactly the
17 date.

18 Q Well, what decade?

19 A It was late 90's, from '95 to 2000. More like '97.

20 Q What kind of car was it?

21 A It was a 300 SD grey Mercedes, turbo diesel.

22 Q You had stolen that?

23 A Stolen the car?

24 Q Yes.

25 A No. I bought it in auction.

1 Q You were stopped and the police impound that car. Is
2 that your testimony?

3 A No. I ran away, dragged two cops down the block. Jumped
4 out of it, cops impounded it. I reported it stolen. The cops
5 came to the house and I reported it stolen.

6 Q Why did the cops stop you to begin with if you had
7 lawfully bought the car?

8 A I seen Peter Zuccaro standing on the corner with a
9 shotgun. Charles said pull over, what's he doing. So we were
10 talking to him. And already somebody'd called up that he had
11 a shotgun on a -- that he was standing in front of a running
12 pick-up truck with a shot gun.

13 So he was standing there talking to us saying he was
14 going to kill Joey Scopo or something. With that, somebody
15 called the cops. They pulled up behind the pick-up truck.
16 The guy jumped out of the pick-up truck, who I don't know,
17 jumped in my car and then he said go, go. And I started
18 taking off, it's a five-cylinder diesel and you can run faster
19 than it, and that's the problem. So we were trying to take
20 off, it was slow, and the guy was just trying to put the car
21 in park. And I dragged them down the block, the cop.

22 Q That's two police officers down the block, right?

23 A One on Charles' neck and one on mine grabbing the
24 steering wheel and the gear shift, yes, I did.

25 Q And some other guy in the back, right?

1 A Correct.

2 Q Who was it?

3 A I have no idea. Peter Zuccaro's friend.

4 Q And you drove down the cop -- you ran away, right, after
5 you got out of the car?

6 A I attempted to ran away. And as the cops was running,
7 they were running alongside the car and they fell down.

8 Q Well, ultimately, the police got the car, right?

9 A They jumped in the car and chased us, and I couldn't -- I
10 couldn't out run them in a five-cylinder diesel. I was doing
11 pretty good but it was getting close and I bailed out.

12 Q The police got your car, right?

13 A Yes, they did. They found it.

14 Q How much time elapsed before you decided to go steal back
15 any information that you had in the car?

16 A A day or two. Me and Charles were driving by and we seen
17 the precinct door open. Seen my car in there with dust all
18 over it. He pulled on the corner, I got out. Walked in the
19 garage, they were doing the roof at the time, that's why the
20 garage was open, and I took my stuff out.

21 Q And nobody stopped you?

22 A No.

23 Q You're pretty good friends with Peter Zuccaro?

24 A We started out as friends but didn't end up that way.

25 Q Did you deal marijuana were Peter Zuccaro?

1 A I gave the pounds and he gave it back to me half missing
2 and soaking wet. No, I didn't deal pot with Peter Zuccaro.

3 Q Were you friends with John Alite?

4 A I was friends with John Alite.

5 Q Did you work with John Alite?

6 A Did the robberies with John Alite. Yes, I --

7 Q Did you go to trial with John Alite?

8 THE COURT: Excuse me, did you finish your answer?

9 THE WITNESS: Yes.

10 BY MS. SHARKEY:

11 Q You went to trial with John Alite?

12 A I did not go to trial with John Alite. He was on the lam
13 in Brazil.

14 Q In the Trucchio trial?

15 A He wasn't on trial.

16 Q You were on trial with Trucchio, right?

17 A And Catalano and Scaglione, yes.

18 Q And Trucchio was a captain in the Gambino crime family,
19 correct?

20 A Yes.

21 Q Johnny Alite was tried and convicted in absentia, or no?

22 A He wasn't tried, no.

23 Q But ultimately, John Alite surrendered and came back?

24 A I think so. I'm not positive. But ended up -- he ended
25 up in the United States. I don't know if he surrendered, they

1 caught him. I don't know the details.

2 Q You testified this morning that you told John Alite that
3 he should cooperate, right?

4 A I told him that he was telling me about his trial
5 strategy. I said you're out of your mind. You're dead, I sat
6 through the trial. They've got so much evidence, you should
7 cooperate. Because he told me I should cooperate first.

8 Q You wrote to the U.S. attorney that you had recruited
9 John Alite for Team USA, right?

10 A Suggesting to cooperate, I don't know if you call that
11 recruiting. But I recommended or I told him. He said I
12 should cooperate the way you were treated. I said I'm facing
13 ten years and you're the one facing life.

14 Q Mr. McMahon, you wrote to AUSA Trezevant that --

15 A What's the actual word in there?

16 Q Would a copy of your letter refresh your recollection?

17 A I feel like we did this already, didn't we?

18 Q Would you like to see the statement, yes or no?

19 A Yes, I would like to see it.

20 Q A copy of your letter to AUSA Trezevant --

21 A Yes.

22 Q -- would that refresh your recollection as to what you
23 said?

24 A Yes.

25 MS. SHARKEY: 3500 KM-32. Let the record reflect

1 I'm showing the witness a copy of his own letter to AUSA
2 Trezevant.

3 (Handing to the witness.)

4 Q I'd ask you that you read the second paragraph and see if
5 that refreshes your recollection.

6 A "As well as told Alite to cooperate." I think I
7 testified to that. I don't -- you keep saying a different
8 word.

9 Q Did you write to AUSA Trezevant?

10 A Yes.

11 Q Did you tell AUSA Trezevant in your letter that you told
12 Alite to cooperate?

13 A As I told Alite to cooperate, yes.

14 Q You characterized yourself in your letter to AUSA
15 Trezevant as now part of Team USA, right?

16 A I think we went through this before, yes. Do you want me
17 to explain?

18 Q No.

19 A Okay.

20 Q Mr. McMahon, you testified that you assaulted Allen
21 Meshanski with a Black Jack?

22 A Yes.

23 Q You frequently carried Black Jacks, right?

24 A They were probably in the car, yes.

25 Q You frequently carried Black Jacks, right?

1 A Yes.

2 Q You assaulted people with bottles, right?

3 A I did.

4 Q Stolen materials, cars from the police lock up, right?

5 A Correct.

6 Q You know, Mr. McMahon, that your testimony here today is
7 the basis of a 5K letter for you, right?

8 A Yes.

9 Q You know that your testimony against Charles Carneglia at
10 this trial depends on whether or not you walk out of jail
11 sometime in the near future or you spend many years in jail,
12 right?

13 A Can you repeat that question?

14 Q Sure.

15 MS. SHARKEY: May I have it read back?

16 THE COURT: Yes. Read it back, please.

17 (Last question read back by the reporter.)

18 A That's not correct.

19 BY MS. SHARKEY:

20 Q Mr. McMahon, you're looking for a good 5K letter, right?

21 A I'm looking for -- they're going to give me what they
22 feel like giving me. The good and the bad. There's no good
23 one.

24 Q Oh, Mr. McMahon, you've known of cooperators who have
25 gotten five years for more than ten murders, right?

1 A Correct. 19 murders, Sammy the Bull. Yes.

2 Q You know that other cooperators have had multiple murders
3 and are out on the street living in society, right?

4 A I do, yes.

5 Q You're hoping that you're one of that team, right?
6 You're hoping to get out with your 5K letter, right?

7 A That's correct.

8 Q Now, when you went to trial in 2006 in Tampa, you were
9 fully aware that if you blew trial you could still cooperate,
10 right.

11 A Usually that don't happen.

12 Q But when you went to trial, you were fully aware of that,
13 right?

14 A When I went to trial I was fully aware of that? I don't
15 think I took that into consideration.

16 Q You went to trial in November -- you were convicted in
17 November of 2006, right?

18 A Correct.

19 Q And immediately, almost immediately, you turned to the
20 government to cooperate, right?

21 A Immediately my lawyer came to me and said the government
22 wants to talk to you, as they have been for the last two
23 decades.

24 Q You now have an open sentence in Florida, right?

25 A Yes.

1 Q You have your cooperation agreement and your plea
2 agreement in this case, right?

3 A Yes.

4 Q And you know very well that, based on your plea agreement
5 and your cooperation agreement, you could walk out of jail at
6 almost anytime, right, depending on your sentence?

7 A That's a nice hopeful wish, yeah. That's true.

8 Q Well, you told the prosecutor on direct examination that
9 you had expected to be bailed out, right?

10 A On the letters that I did, yes.

11 Q It's still your expectation that you could be released
12 prior to being sentenced, right?

13 A I don't know if that even matters anymore.

14 Q Why do you say you don't know if it even matters anymore?

15 A Because eventually, I wanted to do like I did on the
16 extortion case. Get bail, get sentenced and go to jail. But
17 I'm already in jail so I might as well stay.

18 Q Mr. McMahon, you've complained bitterly, bitterly, that
19 you didn't receive bail, right?

20 A That's correct.

21 Q And you know, depending on the Government's good graces,
22 that you could receive bail at any time, right.

23 A That's correct.

24 Q You testified yesterday that John Carneglia brought you
25 into his home when you were homeless and living in backyards,

1 right?

2 A That's correct.

3 Q You testified to babysitting Charles Carneglia, a drunk
4 and a drug user, ever since John Carneglia went to jail in
5 '89, right?

6 A Correct.

7 Q You testified that you went to some prison visits with
8 Charles Carneglia and John Carneglia, right?

9 A Correct.

10 Q You know, based on your relationship with John Carneglia
11 and Charles Carneglia, that the brothers aren't close, right?

12 A Yes.

13 Q You know that Charles Carneglia and John Carneglia are at
14 opposite ends, right?

15 A Blood is thicker than water. They're brothers still.

16 Q You know that Charles Carneglia and John Carneglia don't
17 get along, right?

18 A They have arguments. I don't know about don't get along.
19 They don't see eye to eye and they're still brothers.

20 Q You know that Charles Carneglia is considered a real
21 screw up, right?

22 A That's correct.

23 Q A drunk?

24 A Yes.

25 Q Incompetent?

1 A Yes.

2 Q Needs a babysitter?

3 A Yes.

4 MS. SHARKEY: Nothing further.

5 MR. BURLINGAME: One moment, Your Honor.

6 THE COURT: Thank you. Any redirect?

7 MR. BURLINGAME: Very briefly, judge. Thank you.

8 REDIRECT EXAMINATION

9 BY MR. BURLINGAME:

10 Q Ms. Sharkey just asked you about babysitting the
11 defendant. What did that mean to you?

12 A He's a screw up and just try to keep him out of trouble.

13 Q What sort of events were you told to baby sit him at?

14 A Weddings. He didn't drink and make noise and get
15 obnoxious with people.

16 Q Who gave you those instruction?

17 A John Carneglia or Pete Gotti, or whoever was there.

18 Q Now, you testified you were a Gambino family associate.
19 Who were you under?

20 A Right now?

21 Q Who were you under when you were a Gambino family
22 associate?

23 A I was under John and then Charles.

24 Q When you were under Charles Carneglia, did you baby sit
25 him at times to make sure he didn't make a fool of himself by

1 getting too drunk at Gambino family events?

2 A That's correct.

3 Q And during that same time that you were under him, did
4 you tell him what to do?

5 A No.

6 Q Who is in charge in that relationship? Who was whose
7 associate?

8 A I'm the associate.

9 Q He told you what to do?

10 A Correct.

11 Q Did you speak back to him? Did you ever get angry with
12 him? Did you ever threaten him?

13 A Never -- once I did. At the parking lot in Central Islip
14 when I knew he didn't have nothing on him.

15 Q You testified yesterday that after the DiBono murder you
16 were extremely angry. You'd never involved in a murder
17 before, correct?

18 A Correct.

19 Q And you were angry that you had been brought along for
20 what you thought was a kidnapping and what turned out to be a
21 murder, correct?

22 A Correct.

23 Q You were angry with the defendant?

24 A Correct.

25 Q What did you do with all that anger?

1 A Nothing.

2 Q Why not?

3 A I don't want to end up like Louie DiBono.

4 Q Now, Ms. Sharkey asked you a number of questions about
5 you being interested in preserving yourself, trying to get out
6 of jail. Is that fair to say?

7 A Yes. That's the human way. Yes.

8 Q When you were in that parking lot facing the World Trade
9 Center and you saw the defendant shoot Louie DiBono in the
10 head, you realized that this was no kidnapping. Did you try
11 to help Louie DiBono?

12 A I did not.

13 Q Did you try and get out of that car? Did you try and get
14 out of that murder plot?

15 A No.

16 Q What did you do?

17 A I did what I testified to, I pushed his legs in. I
18 didn't do nothing.

19 Q And then you fled, right?

20 A Correct.

21 Q Did you go turn yourself into the police?

22 A No.

23 Q Did you offer to cooperate at that point?

24 A I did not.

25 Q You tried to take care of yourself, right?

1 A That's correct.

2 Q What about the Jose Delgado-Rivera murder that you plead
3 guilty to. When you saw the defendant pistol whipping Jose
4 Delgado-Rivera and then dropping his lifeless body face first
5 on the ground, did you stop, horrified by what you had seen,
6 and try to give Jose Delgado CPR?

7 A I did not.

8 Q Did you call the police?

9 A No.

10 Q Did you do anything to help?

11 A Nothing.

12 Q What did you do? You got back in the car and you fled to
13 your home?

14 A As fast as I could go, yes.

15 Q Did you call the police.

16 A No.

17 Q Did you offer to cooperate then?

18 A No, I did not.

19 Q You decided only to cooperate after you were facing a
20 huge sentence, right?

21 A Yes.

22 Q Is it fair to say you're not cooperating out of the
23 goodness of your heart?

24 A That's exactly it, yes.

25 Q You're cooperating because you're hoping that you're

1 going to be able to live as a free man once more before you
2 die, correct?

3 A That's correct.

4 Q What's your understanding -- what do you have in front of
5 you?

6 A A cooperation agreement.

7 Q That's the cooperation agreement we talked about before,
8 right?

9 A That's correct.

10 Q Under that cooperation agreement --

11 MR. BURLINGAME: Judge, I move to admit the
12 cooperation agreement, redacted, to the jury.

13 MS. SHARKEY: No objection subject to redaction.

14 THE COURT: What number is it?

15 MR. BURLINGAME: I'm sorry, Judge. 3500 KM 2-C.

16 THE COURT: Admitted.

17 (So marked as Government Exhibit 3500 KM 2-C.)

18 BY MR. BURLINGAME:

19 Q What was the last year of school you went to?

20 A Ninth grade.

21 Q What's your understanding of that cooperation agreement?

22 A It's cut and dry.

23 Q What do you have to do?

24 A Just tell the truth. Doesn't matter what happens.

25 Q What happens if you don't tell the truth?

1 A It's ripped up and I'm stuck with life. I can't take --
2 there's no appeals. There's no nothing. I can't take the
3 plea back.

4 Q Ms. Sharkey referred a couple times to a Team USA?

5 A Correct.

6 Q You said you wanted to explain where you got that term
7 from. Where?

8 A Correct.

9 Q Where did you get it from?

10 A I got it from the TV or the government. There's Team
11 Gambino Family. And there's Team USA, where you tell the
12 truth, you clear your conscious and you live a normal life.

13 Q This wasn't about clearing your conscious, though, right?
14 This was about taking care of Kevin McMahon and trying to get
15 out of jail, right?

16 A Correct.

17 Q You know and is there any doubt in your mind, that Team
18 USA is going to rip up that cooperation agreement if it
19 catches you in one lie?

20 A Correct.

21 MS. SHARKEY: Objection.

22 THE COURT: Just answer.

23 A Yes.

24 BY MR. BURLINGAME:

25 Q No doubt in your mind Team USA is going to rip up that

1 cooperation agreement if it catches you in one lie?

2 A No. There's a prison full of them.

3 Q Right, one lie before this jury?

4 MS. SHARKEY: Objection.

5 A Correct.

6 BY MR. BURLINGAME:

7 Q One lie in any of your meetings with the government?

8 A Correct.

9 Q And what happens if you get caught in a lie?

10 A Ripped up. The agreement's done, finished.

11 Q You like being in jail?

12 A No.

13 Q You hope to get out of jail again?

14 A Yes.

15 Q You've testified truthfully before this jury?

16 MR. BURLINGAME: Nothing further.

17 MS. SHARKEY: Your Honor, may I recross briefly?

18 THE COURT: No. Thank you.

19 Remove the witness.

20 Now, one of the jurors has to leave by 4:30 at the
21 latest. So we'll break about 4:20. We'll take a short break
22 now.

23 (Whereupon a recess was taken at 2:50 p.m.)

24 (Matter continued on the next page.)

25

1 (The following takes place out of the presence of
2 the jury.)

3 THE COURT: Do we have a witness ready for the
4 prosecution?

5 MR. BURLINGAME: Yes, Judge.

6 THE COURT: Have the witness take the stand please.

7 (Witness takes the stand.)

8 (Jury enters courtroom.)

9 (Time noted: 3:15 p.m.)

10 THE COURT: Be seated please.

11 Swear the witness please.

12 (Witness sworn by the clerk.)

13 K E V I N R I C E, having been first duly
14 sworn was examined and testified as follows:

15 THE CLERK: Please be seated and state and spell
16 your full name for the reporter.

17 THE WITNESS: Kevin Rice, K E V I N, R I C E.

18 DIRECT EXAMINATION

19 BY MS. SEIFAN:

20 Q Good afternoon.

21 A Hi.

22 Q How old are you, Mr. Rice?

23 A Fifty-five.

24 Q Are you married?

25 A Yes, I am.

1 Q Do you have any children?

2 A Yes, I have four children.

3 Q What do you currently do for a living?

4 A Right now I'm unemployed.

5 Q Did you recently become unemployed?

6 A Yes, I just recently closed up a business on Sunday.

7 Q What kind of business was that?

8 A I owned a deli business.

9 Q And prior to owning a deli, what field did you work in?

10 A I had 30 years in the armored car business.

11 THE COURT: In the what business?

12 THE WITNESS: Armored car business.

13 THE COURT: Pull the microphone closer and speak up
14 please, sir.

15 THE WITNESS: 30 years in the armored car business.

16 Q Did you ever work for a company called Vets
17 International?

18 A Yes, I did.

19 Q That's an armored car company?

20 A Yes, it is.

21 Q How long did you work at Vets International?

22 A Approximately ten years.

23 Q What did you do for Vets International?

24 A I was the vice president of operations.

25 Q What were your duties and responsibilities as a vice

1 president of operations at Vets International?

2 A I was in charge of hiring, doing all the routing,
3 vaulting, making sure that everybody did what they did. Every
4 possible piece of operation I was in control of.

5 Q When you say "routing," what do you mean by that?

6 A I would schedule the daily stops. We had seven days of
7 work, we'd schedule seven days of routing.

8 Q For the armored cars?

9 A For the armored cars, correct.

10 Q The different stops that they would make?

11 A Yes.

12 Q Do you recall how many armored cars Vets International
13 had?

14 A Approximately 18.

15 Q What kinds of valuables did Vets International deliver to
16 its customers?

17 A We shipped coin, currency, food stamps, precious metals.

18 Q When you say "precious metals," what do you mean by that?

19 A Gold bullion, silver bullion, platinum.

20 Q Where was your office located?

21 A In Brooklyn on Dobbins Street.

22 Q Is that where all the armored car drivers picked up their
23 cars and loaded the valuables?

24 A Yes, they did.

25 Q Do you know whether American Airlines was a customer of

1 Vets International?

2 A Yes, they were.

3 Q Do you recall what valuables Vets International delivered
4 to American Airlines?

5 A Once a week we delivered their payrolls to them and then
6 the rest of the week we picked up their deposits and took them
7 to the bank.

8 Q Do you recall where they delivered the payroll?

9 A One location was JFK Airport the other one was LaGuardia
10 Airport.

11 Q Do you recall what day of the week Vets International
12 delivered the American Airlines payroll to JFK and LaGuardia
13 Airports?

14 A Always on Fridays.

15 Q Every Friday?

16 A Every Friday.

17 Q And which job would they go to first, JFK or LaGuardia?

18 A JFK every Friday.

19 Q Do you recall what time approximately the payroll was
20 delivered to JFK?

21 A Approximately any time between 4:30 and 5:00 in the
22 morning.

23 Q In the morning?

24 A Yes.

25 Q And do you recall where the armored truck went on Fridays

1 after delivering the payroll to JFK and LaGuardia?

2 A That was what we call an over the road truck, they would
3 go up to Connecticut, Rhode Island, Massachusetts.

4 Q So, upstate basically?

5 A Yes, upstate.

6 Q Do you recall whether any of the Vets International
7 armored trucks were ever robbed while delivering the payroll
8 to American Airlines at JFK?

9 A Yes, we had one robbery at JFK.

10 Q Do you recall whether anyone was hurt during that
11 robbery?

12 A One of my employees was killed, yes.

13 Q Do you recall his name?

14 A Jose Delgado Rivera.

15 Q I'm showing you what's been marked as Government
16 Exhibit 64.

17 Do you recognize this individual?

18 A Yes, I do, that's him.

19 Q Who do you recognize it to be?

20 A Jose Delgado Rivera.

21 MS. SEIFAN: Your Honor, I move to admit Government
22 Exhibit 64.

23 MS. SHARKEY: No objection.

24 THE COURT: Admitted.

25 (Government Exhibit 64 received in evidence.)

1 Q Did the guards who were in the armored cars typically
2 drive in teams?

3 A Yes.

4 Q Work in teams?

5 A Yes, he did.

6 Q Can you describe for the jury a typical day for an
7 armored truck team?

8 A A typical day would be come in, you'd get your weapon on,
9 your ID-s, go to the vault area, check out all your stuff,
10 load it up and then head out on your route for the day and
11 just in reverse coming back, you'd come in, check everything
12 in, put your guns away and then go home.

13 Q So, the armored guards carried weapons you said?

14 A Yes, uh-huh.

15 Q Okay. I'm showing you what's been marked for
16 identification as Government Exhibit 93. Take a look at that
17 document.

18 Do you recognize this document?

19 A Yes, I do. It's a manifest of the material that that
20 route checked out.

21 Q What route?

22 A Route 13 on December 14th, 1990.

23 Q Are these records accurate?

24 A Yes, they are.

25 Q Was Exhibit 93 made by a person with knowledge?

1 A Yes, this was made by the vault crew at nighttime the
2 previous day.

3 Q Was it the regular practice of Vets International to keep
4 such records?

5 A Yes, it was.

6 Q Were these records kept in the course of a regularly
7 conducted business activity?

8 A Yes.

9 MS. SEIFAN: Your Honor, I move exhibit --
10 Government Exhibit 93 into evidence.

11 THE COURT: Admitted.

12 (Government Exhibit 93 received in evidence.)

13 MS. SEIFAN: Your Honor, permission to publish it to
14 the jury?

15 THE COURT: Granted.

16 MS. SEIFAN: Permission for Mr. Rice to step down
17 and explain the document to the jury?

18 THE COURT: Granted.

19 (Witness steps down.)

20 Q The document that I showed you up at the stand, that was
21 a copy of this document?

22 A Yes, it is.

23 Q This is the original that's on the screen?

24 A Yes.

25 Q Starting at the top?

1 A Starting at the top, this was the messenger for the day,
2 Jose Rivera. The driver was Edwin Maldonado. Truck number
3 was 27 they had for that day. The route number was 13.
4 Delivery date was 12/14/1990.

5 Q Okay. Let's start with this column.

6 A This is the customers that they had for that day.

7 Q Okay. Am Air stand for?

8 A American Airlines.

9 Q Okay.

10 A The mark underneath was just another bag for American
11 Airlines because we had two that day.

12 Q And one was going to LaGuardia and one was going to JFK?

13 A Correct.

14 Q Is this the order that the items were to be delivered?

15 A Not particularly, no.

16 Q Okay. This is just what was in the truck?

17 A Right, what was on the truck.

18 Q And so, up here, this customer is?

19 A Generic Refinery up in Wallingford Connecticut. Fleet
20 National Bank up in Providence, Rhode Island. Handy & Harmon
21 out of Attleboro Massachusetts. And then Texas Instruments
22 which is also up in Attleboro, Massachusetts.

23 Q Okay. And this column, currency?

24 A This column is what's listed as currency, this is
25 currency and this is all precious metals that we shipped that

1 day is there.

2 Q And you know that because next to it labels whether it is
3 cash --

4 A Right, cash or --

5 Q What does it say?

6 A Platinum ingots.

7 THE COURT: It says what?

8 THE WITNESS: Platinum ingots, bars of platinum.

9 Q Okay, and --

10 A This GB is gold bars.

11 Q So, there were gold bars on the truck at the time as
12 well?

13 A Right.

14 Q And gold salts?

15 A Right.

16 Q It says poisonous, what is that?

17 A Might have been a shipment with poisonous gold.

18 Q What do you mean by that?

19 A Going to a refinery, it might have been mixed up with
20 other stuff.

21 Q What is this column here?

22 A That is number of pieces they had on the truck each
23 shipment.

24 Q Okay. So, go ahead?

25 A Well, you had one bag for American Airlines, one bag and

1 ten platinum ingots.

2 Q So, in this column here, what is the title? It is hard
3 to read.

4 A Number of pieces.

5 Q Okay. One bag was going to American Airlines at
6 LaGuardia and one bag was going to American Airlines at JFK?

7 A Correct.

8 Q These were canvas bags?

9 A Right, canvas bags.

10 Q Okay. And so, the total value of currency that was going
11 to American Airlines at JFK on December 14th, 1990 was 55,000?

12 A That's correct.

13 Q And going to JFK?

14 A 65,000.

15 Q 65,000 on December 14th, 1990.

16 A That's Fleet Bank, the gold bars.

17 Q So, over \$1.8 million worth of --

18 A Correct.

19 Q -- gold bars were going to Fleet Bank. This is?

20 A 1.2.

21 Q Of gold bars?

22 A Gold bars.

23 Q Going to Attleboro?

24 A Correct.

25 Q 54,000?

1 A 54,000 --

2 Q Of gold salts going to Texas Instruments; 11,900 was also
3 going to Texas Instruments, 1,900.

4 Do you know whose signature this is at the bottom?

5 A That's Jose Rivera's signature.

6 Q Jose Rivera's signature.

7 And before they took possession of everything or
8 drove away they had to sign?

9 A They had to sign for the shipment and then load it up on
10 the truck.

11 Q To indicate that this was everything?

12 A That they accepted.

13 Q They accepted everything that they had?

14 A Yes.

15 Q So, in total how much approximately was in this armored
16 car on December 14, 1990?

17 A Over \$3 million.

18 Q Okay. Thank you.

19 (Witness resumes the stand.)

20 MS. SEIFAN: No further questions, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. SHARKEY:

23 Q Hi, Mr. Rice.

24 A Hi.

25 Q How are you?

1 A Okay.

2 Q Mr. Rice, how many years were you with the armored car
3 service?

4 A Vets International?

5 Q Yes?

6 A Approximately ten years.

7 Q And in your experience at Vets International, were you in
8 a managerial sort of position, is that fair to say?

9 A Yes, vice president of operations.

10 Q And as vice president of operations, there were security
11 measures that were in place, external security measures as far
12 as the cars go, right?

13 A Correct.

14 Q And often or on a regular basis wouldn't there be an auto
15 that followed the armored car?

16 A An auto that followed, not necessarily, no.

17 Q But sometimes, right?

18 A Occasionally.

19 Q And you also had the Port Authority Police Department
20 follow the armored cars at times?

21 A No.

22 Q When you say occasionally --

23 A Not that I know of.

24 Q Okay. When you say "occasionally," there would be other
25 cars that would follow an armored car on occasion, is that

1 right?

2 A On occasion we as a company would follow our own trucks.

3 Q And why would that be?

4 A Just to spot check to make sure they're doing the correct
5 procedures.

6 Q Okay. And it would also be accurate to say that the
7 trucks were examined on a periodic basis, right?

8 A Yes.

9 Q And had you noticed the lock on a particular truck had
10 been damaged, would it be fair to say that you would have
11 taken some measure to surveil that truck or repair the lock?

12 A We would have repaired the lock, correct.

13 Q And if you believed that a particular truck was under
14 repeated threat of theft by having its lock picked repeatedly,
15 it would be accurate to say that your company would take some
16 measure to ensure the safety of that truck and its drivers,
17 right?

18 A Of course.

19 Q What would happen if you saw that a lock on a truck had
20 been picked?

21 A We wouldn't let the truck go out.

22 When you say "picked," you're talking about putting
23 little picks in?

24 Q I'm talking about being jimmied, being -- tools being
25 applied to pry open the truck?

1 A I've never seen that happen.

2 Q Never?

3 A No.

4 Q And if the lock on the truck had been damaged by tools,
5 certainly that would have been recorded by your company,
6 right?

7 A Of course, yes.

8 Q And certainly your company would have taken measures to
9 ensure the safety of your personnel, right?

10 A Yes.

11 Q And certainly your company would have taken measures to
12 notify the police and capture individuals who were trying to
13 break into the truck, right?

14 A Of course, yes.

15 Q And in your experience, do you think it is possible for
16 somebody to try to pick a lock on your truck from ten to
17 thirty times, same truck, without you knowing about it?

18 A Me personally?

19 Q Yeah?

20 A I doubt it.

21 Q And in your experience, do you think it is possible that
22 somebody --

23 A Go ahead, go ahead, sorry.

24 Q Did you have something to say? Say it.

25 A You're talking about multiple locks on trucks so you're

1 talking about front doors, back doors; are you talking about
2 particular locks?

3 Q Yeah, the back door of the truck?

4 A Okay.

5 Q That goes into the body of the truck, right?

6 A Okay, yeah.

7 Q And that's where the valuables are stored, right?

8 A That's correct.

9 Q And had your company noticed that somebody tried to
10 jimmy, break open the lock on the back of your truck ten,
11 twenty times, your company would have engaged in some efforts
12 to capture the person who was attempting entry into your
13 truck?

14 A If we thought somebody was trying to break in, correct.

15 Q Have you ever heard of anybody jumping on top of one of
16 your trucks and videotaping the inside?

17 A No.

18 Q And would it be fair to say that that would be something
19 about which you would have knowledge?

20 A I would imagine, yes.

21 MS. SHARKEY: Thank you. Thank you so much,
22 Mr. Rice.

23 REDIRECT EXAMINATION

24 BY MS. SEIFAN:

25 Q Mr. Rice, you just testified that if somebody had jumped

1 on top of a truck and videotaped it, you would know; how would
2 you know?

3 A Well, I would imagine the truck crew would call in and
4 say, yo, there's somebody on our truck, call 911.

5 Q So, you're saying if armored guards were around the truck
6 and they saw somebody jump on top of it, they would report it
7 to you?

8 A Yes, of course.

9 Q So, that's what you meant when you said you would know if
10 somebody jumped on the truck?

11 A Yes, the crew would call in and say we have somebody on
12 the truck.

13 Q Are you familiar with something called a picking drill?

14 A No.

15 Q No?

16 A No.

17 Q You said that valuables were stored in the back of the
18 truck?

19 A That's correct.

20 Q Are you aware of whether anyone also -- any armored
21 guards ever kept anything in the front in the cab?

22 A It's very possible that that would happen, the bags of
23 currency because of the size of the amount of the precious
24 metals in the back of that truck, it's possible that the
25 currency bag would have been kept up front.

1 Q So, it wouldn't be in the back locked up with the rest of
2 the valuables?

3 A Well, it is locked up, they're in a secure truck so it's
4 locked up.

5 Q But it is secured in a different place in the truck?

6 A Correct.

7 MS. SEIFAN: All right. No further questions.
8 Thank you.

9 THE COURT: Thank you.

10 That will be all.

11 THE WITNESS: Thank you.

12 THE COURT: Next witness please.

13 MR. BURLINGAME: The government calls Bob Booth.

14 (Pause in the proceedings.)

15 MR. BURLINGAME: Judge, I'm sorry, we apparently had
16 a miscommunication with one of the witnesses who was
17 mistakenly sent home so the government will call Joseph
18 Chimienti.

19 (Witness takes the stand and is sworn by the clerk.)

20 J O S E P H C H I M I E N T I, having been first duly
21 sworn was examined and testified as follows:

22 THE CLERK: Please state your name and spell your
23 full name for the reporter.

24 THE WITNESS: My name is Joseph Chimienti,
25 C H I M I E N T I.

1 DIRECT EXAMINATION

2 BY MR. BURLINGAME:

3 Q Good afternoon.

4 A Good afternoon.

5 Q What do you do for a living?

6 A I'm an investigator with the New York County District
7 Attorney's Office.

8 Q What do you investigate?

9 A Traditional organized crime.

10 Q What do you mean by traditional organized crime?

11 A Italian.

12 Q How long have you been working as an investigator at the
13 New York County District Attorney's Office?

14 A Fourteen years.

15 Q What did you do before that?

16 A I was with the New York City Police Department.

17 Q How long were you with the NYPD?

18 A Twenty-two years.

19 Q What positions did you have in NYPD?

20 A I was a detective investigating organized crime,
21 traditional organized crime.

22 Q How long did you investigate traditional organized crime
23 with the NYPD?

24 A Twelve years.

25 Q The last twelve years of your career there?

1 A Yeah.

2 Q So, fair to say for the past 26 years you've been
3 investigating traditional organized crime?

4 A Correct.

5 Q During that time did you conduct surveillance?

6 A Yes.

7 Q And when you conduct surveillance can you just explain
8 briefly to the jury what you do?

9 A Well, we'll go to a location and the reason that we would
10 go to a location, they think it would be opportunistic for us
11 to get information regarding illegal activities that organized
12 crime figures would be doing.

13 Q So, you would try and actually take photos of people
14 committing crimes?

15 A No.

16 Q What would you be trying to do through the surveillance?

17 A Well, we would put, you know, photographs of people
18 together, who was talking to who, who showed up with who, who
19 left with who, who was interacting with who.

20 Q Trying to capture their associations?

21 A Correct.

22 Q What sort of events would you typically conduct
23 surveillance of?

24 A It could be anything; it could be a diner, it could be a
25 social club, it could have been a wedding, christening, a

1 wake, anything that they would gather in.

2 Q And when you would conduct these surveillances would you
3 take notes of what you were seeing?

4 A At times.

5 Q Would those notes get turned into reports?

6 A Yes.

7 Q Would you sometimes conduct surveillances of events that
8 other law enforcement agencies were also conducting
9 surveillance of?

10 A Yes.

11 Q That would happen frequently?

12 A Most times.

13 Q For what sorts of events?

14 A Well, I'd just like to replace that.

15 Q Sure.

16 A Where would the law enforcement be probably at, maybe at
17 a wedding or a wake but like a social club, I would be there,
18 just people on our team and, you know, diners, things of that
19 nature.

20 Q So, it was more of the weddings and the wakes would be
21 often covered by more than one law enforcement agency?

22 A Correct.

23 Q When you conducted surveillance, would you conduct it by
24 yourself or with others?

25 A With others.

1 Q And would you have any equipment with you when you were
2 conducting surveillance?

3 A Yes.

4 Q What sort?

5 A Cameras and binoculars.

6 Q What's the purpose of having a camera with you?

7 A To testify to the event.

8 Q Try and capture the associations that you're looking for
9 between who's coming together and who's there?

10 A Yes.

11 Q Would you always be able to take pictures of everybody
12 you spotted?

13 A No.

14 Q Why not?

15 A A lot of times there would be obstructions, a lot of
16 times they would move too quickly, a lot of times they would
17 disguise themselves, hide with their hands, you know, things
18 of that nature.

19 (Continued on next page.)

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1 CONTINUED DIRECT EXAMINATION

2 BY MR. BURLINGAME:

3 Q I would like to show you some photos that are already in
4 evidence. Government Exhibit be 251.

5 Did you attend this wake?

6 A Yes, sir.

7 Q Government Exhibit 272.

8 Did you attend this wake?

9 A Yes.

10 Q And when I say attend, I mean conduct surveillance of.

11 A Yes.

12 Q Government Exhibit 273.

13 Did you conduct surveillance of this wake?

14 A Yes.

15 Q And Government Exhibit 268.

16 Did you conduct surveillance of this wake?

17 A Yes.

18 Q Government Exhibit 256.

19 Did you conduct surveillance of this wake?

20 A Yes.

21 Q Government Exhibit 254.

22 Did you conduct surveillance of this wake?

23 A Yes.

24 Q Government's Exhibit 255.

25 What about this wake?

1 A I covered that, yes.

2 Q Government's Exhibit 274.

3 Did you conduct surveillance of this wake?

4 A Yes.

5 Q Government's Exhibit 278.

6 This wake?

7 A Yes.

8 Q Finally, Government's Exhibit 252.

9 Did you conduct surveillance of this wake?

10 A Yes.

11 MR. BURLINGAME: Okay. Now I would like to show the
12 jury these boards and have you come down and just explain what
13 is on the board, if you would.

14 Judge, is it okay for the witness to come down and
15 go through the boards?

16 THE COURT: Yes.

17 BY MR. BURLINGAME:

18 Q So this is one of the wakes that you conducted
19 surveillance of?

20 A Yes.

21 Q And can you explain to us where and when and whose wake
22 this was.

23 A This is the wake of James Burke on April 16th and 17th in
24 1996.

25 Q And where was it?

1 A This was at Romanelli Funeral Home on Crossbay Boulevard
2 in Queens.

3 Q Okay. And you were conducting surveillance of this wake?

4 A Yes.

5 Q Did you take any of these photographs?

6 A Yes, I took these.

7 Q Go ahead.

8 A I don't remember this one. I know I took the rest of
9 them.

10 Q Okay. But you remember conducting surveillance at this
11 wake?

12 A Yes.

13 Q And can you point out who is who in the photographs,
14 starting the top left-hand side of the exhibit -- or the
15 right-hand side are looking out from the exhibit.

16 A Well, on this photograph they have Joseph Panzarella,
17 Jr., Charles Carneglia, and Kevin McMahon.

18 Q And that is -- also visible in that photograph is -- is
19 that the -- what was that? The awning of the James Romanelli
20 Funeral Home?

21 A This photograph I didn't take --

22 Q Okay.

23 A -- because I can tell by that awning.

24 Q Okay. The next photograph?

25 A The next photograph is James Perone, Joseph Panzarella,

1 Jr., Charles Carneglia, and Danny Avangalizzo(ph).

2 Q That is Charles Carneglia right there?

3 A Yes, it is. Sideways.

4 Q This photo?

5 A This photo is Anthony Ruggiano with the wife.

6 Q And can you point exactly to who in Anthony Ruggiano?

7 A Going in the door.

8 Q Bottom photo, first one on the right.

9 A And this is Joseph Panzarella, and with Charles
10 Carneglia.

11 Q And middle photo on the bottom?

12 A This is James Perone with Peter Zuccaro.

13 Q This photo, who is that?

14 A That is Peter Gotti.

15 Q Can you take us through the information on this board?

16 A Yes.

17 This is a surveillance we conducted on February 11th
18 and 12th, 1998.

19 MR. BURLINGAME: Oh, sorry. Let me just -- this is
20 Government's Exhibit 278.

21 THE WITNESS: Surveillance was conducted
22 February the 11th and 12th, 1998, at the Matthew Funeral Home
23 on Victory Boulevard in Staten Island. It was the Louis
24 Epifania, Sr., wake.

25 BY MR. BURLINGAME:

1 Q Okay. And who is depicted in the three photographs on
2 this board, starting in the top right-hand corner?

3 A It is Charles Carneglia, Thomas Cacciopoli, Anthony
4 Sclafani, and Vincent Sclafani.

5 Q Anthony Sclafani?

6 A I'm sorry. August Sclafani. Augustus, yeah.

7 Q I am showing you Government Exhibit 274.

8 The Francis Ciccone wake. This was a wake you
9 conducted surveillance of?

10 A Yes, it is.

11 Q Took place July 2nd, 1996?

12 A Yes.

13 Q Raccuglia & Son.

14 What is that, a funeral home?

15 A It's on Court Street in Brooklyn.

16 Q Okay. And can you go through the photos, going across
17 the top row.

18 A Yes.

19 We have John Ambrosia, Charles Carneglia, James
20 O'Keefe, Michael Guerreri.

21 In the second photo, Charles Carneglia and John
22 Ambrosia.

23 The last photo at the top is John Ambrosia, Mike
24 Guerreri, and Charles Carneglia.

25 Q Okay. The bottom row.

1 A The bottom row is John Cavallo and Thomas Cacciopoli.

2 Q The middle.

3 A There is Louis Scida and Nicholas Corozzo.

4 And the photo over there on the right is August
5 Sclafani.

6 Q Putting up Government Exhibit 255.

7 James Fiala wake. This is a wake you also conducted
8 surveillance of?

9 A Yes.

10 Q August 12th and 13th, 11999?

11 A Yes.

12 Q Can you go through who is in the photographs.

13 A All right. This photograph we have John Cavallo with
14 Charles Carneglia.

15 The next photograph you have Joseph Costa, Vinnie
16 Parisi, Vincent Corrao, August Sclafani, and Patsy Marsala.

17 Q Is that the same August Sclafani we've seen in a couple
18 of the boards so far?

19 A Yes, it is.

20 Q And obviously the same Charles Carneglia we have seen on
21 the other boards so far?

22 A Yes.

23 Q Who is standing here in the bottom?

24 A Bottom photo is Peter Gotti.

25 Q The same Peter Gotti we saw before?

1 A Yes.

2 Q And I believe we had saw John Cavallo in prior photos; is
3 that correct?

4 A Yes.

5 Q This is Government Exhibit 254.

6 Wakes of Alphonse Trucchio and Anthony Ruggiano,
7 March 21st and March 20 -- March 20th and 21st, 1999, you
8 conducted surveillance of this wake?

9 A Yes.

10 Q Or these wakes?

11 A Yes.

12 Q Could you look through the photographs and say who is
13 depicted?

14 A Yes.

15 In this photograph you have Charles Carneglia.

16 In the next one you have Thomas Cacciopoli, Charles
17 Carneglia, and John Cavallo.

18 The next photo we have John Cavallo with Thomas
19 Cacciopoli.

20 On the bottom one you have Bartolameo Vernace. Him,
21 I don't know who he is, this guy here, but it's Culicello, I
22 believe his name is.

23 Q But you are not able to identify him?

24 A No. No?

25 Q These photographs were put on by a different -- I mean,

1 the labels were put on by a different agent.

2 A Yeah.

3 Thomas Cacciopoli and Charles Carneglia and John
4 Cavallo.

5 The bottom middle one you have August Sclafani.

6 And the one on the bottom on the right you have
7 Joseph Panzarella, Jr.

8 Q And, again, this is the same Joseph Panzarella, Jr., you
9 have identified before, the same Thomas Cacciopoli, the same
10 John Cavallo, and the same Charles Carneglia?

11 A Yes.

12 Q Government Exhibit 256.

13 The Harriet Arcuri wake, January 3rd of 2000. And
14 you conducted surveillance of this wake?

15 A Yes, I did.

16 Q And can you tell us who is depicted in the two photos on
17 the board?

18 A Yes. The first photograph is Tommy Carbonero, Michael
19 DiLeonardo, Louis Valerio, and Edward Garafola.

20 And the other photo is August Sclafani.

21 Q And that is the same August Sclafani that we have seen in
22 all but one of the boards so far?

23 A Yes.

24 Q Government Exhibit 268.

25 The wake of Ralph Scopo. You conducted a

1 surveillance of this wake?

2 A Yes.

3 Q March 11th, 1993?

4 A Yes.

5 Q Can you identify who is in the two photos?

6 A Yes.

7 One photo you have Charles Carneglia and the other
8 photo you have John Cavallo.

9 Q Okay. The same John Cavallo and Charles Carneglia we
10 have seen in multiple prior boards?

11 A Yes.

12 Q This is Government's Exhibit 273.

13 The Joseph Gallo wake. You also conducted
14 surveillance on this wake?

15 A Yes.

16 Q September 5th, 1995?

17 A Yes.

18 Q Can you take us through and show us who is who on this
19 board?

20 A Yes.

21 The first photograph is Michael Guerreri, Anthony
22 Ruggiano, Frank Barranca, and Dominic Pizzonia.

23 The next photograph on top is Anthony Ruggiano,
24 Michael Guerreri, Frank Barranca, and Dominic Pizzonia.

25 And on the bottom they have Joseph Franco, Giuseppe

1 Correa, and Joseph Marino.

2 And the next photograph on the bottom you have
3 Joseph Giuliano, John Riccobono, and Georgie DiChico.

4 Q Okay. And this is the same Anthony Ruggiano that we saw
5 at one of the prior boards?

6 A Yes.

7 Q Okay. This is the wake of -- Government's Exhibit 272.

8 The wakes of Paul Lombardozzi and Frankie Lino's
9 niece, July 6th, 1995. You conducted surveillance at this
10 wake?

11 A Yes.

12 Q And can you just identify who is in the pictures?

13 A Yes.

14 The first photograph is Michael DiLeonardo, Frank
15 Capilano.

16 The next photograph is John D'Amico.

17 And the bottom photograph is Anthony Ciccone,
18 Louis Valerio and Jerry Brancato.

19 Q And that is the same Michael DiLeonardo you ID'd in one
20 of the other prior photographs?

21 A Yes.

22 Q The final board is Government Exhibit 251.

23 The Rocco Corozzo wake, January 11th and
24 January 12th, 1996. You conducted surveillance of this wake?

25 A Yes, I did.

1 Q And can you identify who is in the photos?

2 A Yes.

3 The first photograph is Charles Carneglia. The next
4 photograph is Joe Maniero with Thomas Cacciopoli.

5 And on the bottom one you have Joseph Panzarella,
6 Jr., with Charles Carneglia.

7 And the bottom one on the right is Charles
8 Carneglia.

9 Q Now, is it fair to say just before you took the stand we
10 had a conversation in the hallway about this -- about this
11 wake?

12 A Yes.

13 Q Can you tell me what you explained to me in the hallway?

14 MS. SHARKEY: Objection to the form of the question.

15 THE COURT: Yes.

16 BY MR. BURLINGAME:

17 Q Were you able to identify -- based on your observation in
18 the newspaper in the last few days, were you able to identify
19 somebody that you saw at this wake that you not previously
20 been able to identify?

21 MS. SHARKEY: Objection.

22 THE WITNESS: The photograph --

23 THE COURT: Based on your own research and expertise
24 is the question and not what you saw in the newspaper.

25 Proceed.

1 BY MR. BURLINGAME:

2 Q Was there somebody who you observed at this wake that you
3 were not able to identify at the time?

4 A Yes.

5 Q And did you recently view a picture of that person that
6 you were unable to identify at this wake?

7 A Yes, I did.

8 Q Okay. And where did you view that picture?

9 A In one of the newspapers.

10 THE COURT: Do you have the picture?

11 BY MR. BURLINGAME:

12 Q Was the person identified in the photograph in the
13 newspaper?

14 THE COURT: Do you have the picture?

15 MR. BURLINGAME: No, Judge.

16 THE COURT: Then I don't want it.

17 MR. BURLINGAME: Okay. I didn't -- I am sorry.
18 I didn't realize it was objectionable.

19 BY MR. BURLINGAME:

20 Q Okay. Could you -- I'm sorry. I am not sure.

21 Did we go through this?

22 A Yes, we did.

23 Q And this is the same Charles Carneglia and Thomas
24 Cacciopoli and Joseph Panzarella, Jr., we saw in many of the
25 previous set of boards; right?

1 A Yes.

2 Q Okay. Now, you testified --

3 MR. BURLINGAME: You can retake the stand.

4 BY MR. BURLINGAME:

5 Q Now, you testified when you attended these wakes notes
6 are taken and they are often later turned into reports; is
7 that right?

8 A Yes.

9 Q And you have -- I am placing before you a binder, and
10 I'll ask you to take a second to look through.

11 Is it fair to say that is a binder with a number of
12 reports of the surveillances that you participated in?

13 A Yes.

14 Q Did you view that before your testimony today?

15 A Yes.

16 MR. BURLINGAME: And with the Court's permission,
17 I would ask that the witness be allowed to refer to his notes
18 as needed to recollect.

19 THE COURT: You may.

20 BY MR. BURLINGAME:

21 Q So just briefly, to go through some of the boards that
22 we -- some of the people who are also at the events for the
23 board that we just looked at.

24 The James Burke wake, which you identified the
25 defendant, Charles Carneglia, and Kevin McMahon, was that also

1 attended by Anthony and Blaise Corozzo?

2 A Yes. I am just looking for the report.

3 Q Oh, I am sorry. It's at 3500 JC 5. JCH 5.

4 A I don't see my -- I don't see my report. I see somebody
5 else's report.

6 Q This one here.

7 A I didn't make this report.

8 Q Okay. But is that a report of -- is your name on the
9 report?

10 A Yes, it is.

11 Q Okay. And did you take part in this surveillance with
12 the individuals on this report?

13 A Yes, I did.

14 Q At that wake -- the James Burke wake, April 16th and
15 April 17th, 1996, you identified photos of, among others, the
16 defendant and Kevin McMahon attending.

17 Did Anthony and Blaise Corozzo also attend that
18 wake?

19 A Yes, they did.

20 Q Richard Ingardia?

21 A Yes, he did.

22 Q Ronald Trucchio?

23 A Yes, he did.

24 Q Anthony Ruggiano, Jr.?

25 A Yes.

1 Q Joseph Scopo?

2 A Jr. Yes.

3 Q Turning to JCH 7, the next document.

4 A I have it.

5 Q That is the wake of Rocco Corozzo?

6 A Yes, it is.

7 Q That is the board up in front of the jury right now?

8 A I believe it is.

9 Q And on the board is pictured Joseph Panzarella, Jr., the
10 defendant, and Thomas Cacciopoli.

11 Were Anthony and Blaise Corozzo also present at that
12 wake?

13 A Yes, they were.

14 Q Peter Gotti, Richard Gotti, and Vinnie Gotti?

15 A Yes.

16 Q Sal Gambino?

17 A Yes.

18 Q Dominic Pizzonia?

19 A Yes.

20 Q Ronnie Trucchio?

21 A Yes, he was.

22 Q If you'll look at the board for the Francis Ciccone wake,
23 it is -- the defendant attended, along with Thomas Cacciopoli
24 and Jackie Cavallo.

25 Were Blaise and Nicholas Corozzo also at that wake?

1 A Yes.

2 Q Leonard DiMaria?

3 A Yes.

4 Q Louis Scida?

5 A Yes, he was.

6 Q Turning to the wake of Louis Epifania, Sr., another board
7 we looked at.

8 I believe that you identified the defendant,
9 Tommy Cacciopoli on that board.

10 A Yes.

11 Q Was William Bicker also at that wake?

12 A Yes, he was.

13 Q Robert Epifania?

14 A Yes, he was.

15 Q Janet Ruggiero?

16 A She was.

17 Q Turning to the wake of Anthony Ruggiano, Sr., and
18 Alphonse Trucchio, another one of the boards we looked at.

19 I believe that you identified the defendant, Jackie
20 Cavallo, Thomas Cacciopoli, amongst others.

21 Was Domenico Cefalu at that wake?

22 A Yes, he was.

23 Q Anthony Corozzo, Blaise Corozzo, Joseph Corozzo, Jr.,
24 Rocco Corozzo?

25 A They were there.

1 Q Sal Gambino?

2 A Yes, he was.

3 Q Joseph Panzarella?

4 A Yes.

5 Q Ronnie Trucchio?

6 A Yes, he was.

7 Q William Victor?

8 A Yes.

9 Q Finally, the wake of James Fiala, another of the boards
10 we just looked at. I believe that you identified the
11 defendant, Tommy Cacciopoli, and Jackie Cavallo, among others
12 at that wake.

13 A Yes.

14 Q Was Ignacio Alogna also there?

15 A Yes, he was.

16 Q Peter Gotti, Richard Gotti?

17 A Yes, they were.

18 Q Dominic Pizzonia?

19 A Yes, he was.

20 Q Gus Sciafani?

21 A He was there.

22 MR. BURLINGAME: Nothing further, Judge.

23 MS. SHARKEY: No cross.

24 Thank you very much.

25 THE COURT: Thank you.

1 Your next witness, please.

2 MR. BURLINGAME: Judge, I am afraid we ran out of
3 witnesses due to a miscommunication. I apologize.

4 THE COURT: I have to let you go. I am sorry.
5 9:30 tomorrow morning.

6 (Whereupon, the Jurors exited the courtroom at
7 4:05 p.m.)

8 THE COURT: The reporters are having difficulty with
9 this long screen of names. We have all of the names, I
10 believe, on the written questionnaire. So may I suggest that
11 you furnish that to the reporters. It made be of some help.

12 MR. BURLINGAME: Sure, Judge.

13 THE COURT: And whatever else you can do to assist
14 by listing their names would be helpful. It is very
15 difficult.

16 Now, either those of you who want to remain, sit
17 down. Those of you don't will please leave.

18 We have a briefing on Friday. The defendants wish
19 to admit the police reports --

20 MS. SHARKEY: Yes.

21 THE COURT: -- that have been marked for
22 identification. Briefs are due Friday and Monday. The
23 Government wants to introduce the -- if those reports are
24 introduced, the notebook of the police investigator.

25 One notebook; is that correct?

1 MR. BURLINGAME: Yes. I mean, we will look at the
2 issue.

3 THE COURT: Give me a copy of those pages tonight,
4 and deal with the notebook, as well as the police reports. My
5 inclination is to let everything in. I realize that by some
6 views it is a violation of the hearsay rules, but in
7 connection with these matters, which are more than 30 years
8 old, where witnesses don't have recollections that are
9 reliable or they are not available, a contemporaneous document
10 by a trained reporter seems to me about as valuable a piece of
11 evidence as you can get.

12 I have already dealt with the problem of the
13 effective Rule 102. So I am awaiting your briefs and I am
14 examining the documents, but my inclination is to let
15 everything in. And if I let in at the defendant's request the
16 police reports, which have been marked already, I am inclined
17 to let in the police investigator's report under the
18 completion doctrine theory.

19 I recognize this is stretching the rules, but
20 they're stretching them for the purpose of obtaining a more
21 accurate estimation of the facts and achieving the justice
22 that all, particularly here the United States Attorney, wishes
23 to achieve.

24 MR. BURLINGAME: Thank you, Judge.

25 I would just ask that we be -- if that is the

1 Court's tentative ruling we be --

2 THE COURT: I am just telling you where my mind is.

3 MR. BURLINGAME: Where your mind is; right.

4 THE COURT: Yes.

5 MR. BURLINGAME: And we be allowed to -- we
6 obviously didn't anticipate the NYPD reports concerning the
7 Gelb murder would be coming into evidence. And so under the
8 rule of completeness we would just like the opportunity to
9 potentially move to admit other reports.

10 THE COURT: Look at everything what is available on
11 both sides, and I will consider the whole problem.

12 MR. BURLINGAME: Great. Thank you.

13 MR. FARBER: Judge, given that is an area which
14 brought up by Mr. Burlingame, the police report -- the defense
15 sought to introduce relating to Gelb. The report that the
16 Government is seeking to introduce relates to the Catillo
17 murder. If we are actually opening up the door to all police
18 reports, then I think the defense would like to be able to
19 review the police reports also for the Puma and the Delgado
20 Rivera murder and perhaps --

21 THE COURT: Well, review it and let's get the whole
22 thing out in the open and I will deal with each one of the
23 reports separately and each murder separately. There may be
24 different considerations. But let's get the whole thing out
25 on the -- in the open so that we know what we are dealing

1 with.

2 MR. FARBER: Just going back then, let me try and
3 think.

4 Does the Court refer as the memo book of the
5 detective relating to Catillo -- my understanding is that the
6 Government was seeking to have five page of that memo book
7 relating to the statement given by Joy Giovi. I just want to
8 make sure it is not being extended to the detective's entire
9 memo book because that is countless pages.

10 THE COURT: Well, that is all we are dealing with at
11 the moment. If they want to expand that, they will make the
12 point so we will have the whole thing before us. At the
13 moment I am just dealing with those pages that we used at the
14 trial to date.

15 MR. FARBER: The briefing this coming Friday was
16 strictly for documents that have already been reviewed by
17 Court and consented to.

18 THE COURT: Yes. Unless you give each other notice
19 that you want to expand it.

20 MR. BURLINGAME: Very well, Judge.

21 MR. FARBER: Very well, Judge.

22 THE COURT: Anything further? Any other
23 application?

24 MR. BURLINGAME: Judge, if we could -- I know we
25 asked you yesterday and the Court kindly allowed us to push

1 back the jury questionnaire deadline to Friday. If there is
2 any way you could possibly give us until Monday morning, that
3 would be great.

4 THE COURT: For what?

5 MR. BURLINGAME: For the jury -- I'm sorry. Not the
6 jury questionnaires. The jury charge.

7 THE COURT: Yes. Monday morning is fine.

8 MR. BURLINGAME: Thank you, Judge.

9 THE COURT: Anything else?

10 MR. FARBER: No, Judge.

11 THE COURT: 9:00 o'clock, again, tomorrow, please.

12 Good night.

13 Have the defendant in place at 9:00 a.m.

14 (Whereupon the matter was adjourned to February 19,
15 2009 at 9:00 a.m.)

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